



BOARD OF APPEALS

Date Filed:

JAN 20 2017

APPEAL # 17-006

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **Philip Achilles**, hereby appeal the following departmental action: **DENIAL** of **Alteration Permit No. 2014/06/03/7353** by the **Planning Department** which was issued or became effective on: **January 06, 2017**, for the property located at: **819 Ellis 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: **March 02, 2017, (no later than three Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible. PA

Respondent's and Other Parties' Briefs are due on or before: **March 16, 2017, (no later than one Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible.

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

Hearing Date: **Wednesday, March 22, 2017, 5:00 p.m., City Hall, Room 416**, One Dr. Carlton B. Goodlett Place.

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 submit eleven (11) copies of all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. 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 at the Board's office. 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.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows:

See attachment to the Preliminary Statement of Appeal.

Appellant or Agent (Circle One):

Signature: 

Print Name: PHILIP ACHILLES

PRELIMINARY STATEMENT OF APPEAL

Date
Filed:

BOARD OF APPEALS

JAN 20 2017

APPEAL #17-006

SUMMARY OF REASONS OR GROUNDS FOR APPEAL CONTINUED:

FILING AN APPEAL
REGARDING PERMIT #
2014 06037353 IN PROGRESS
OF OBTAINING CHANGE OF USE
PERMIT AND HOW BANK LOANS
FOR FINANCING CONSTRUCTION
COSTS



January 6, 2017

NOTICE OF DISAPPROVAL
Building Permit Application No: 2014 0603 7353
Job Address: 819 Ellis St
Cancel Date: March 6, 2017

BOARD OF APPEALS

Archilles Revoc Trust 2003
819 Ellis St
San Francisco, CA 94109

JAN 20 2017

APPEAL # 17-006

Dear Applicant(s):

The above referenced application has been cancelled by the San Francisco Planning Department for the following reason(s):

- No response from applicant

If you have questions regarding this matter, please contact Carly Grob from Planning at (415) 575-9138 within 60 days of this letter or else your permit application will be cancelled per 2013 SFBC 106A.3.8 on March 6, 2017.

You may appeal the disapproval of this building permit application to the Board of Appeals within fifteen (15) days of the date of this letter. To file an appeal, bring a copy of this letter to the Board of Appeals, 3rd Floor of 1650 Mission Street, San Francisco. If you have questions regarding the appeals process, please call the Board of Appeals at (415) 575-9079.

If you have further questions, please call the Department of Building Inspection, Permit Processing Center at (415) 558-6133.

Sincerely,

Eddie Chan
Permit Processing Center

A handwritten signature in black ink that reads "Eddie C." with a stylized flourish at the end.

cc: Behruz Vahdani
28570 Marguerite #204
Mission Viejo, CA 92692

CERTIFIED MAIL RETURN RECEIPT ON FILE

Permit Processing Center
1660 Mission Street – San Francisco CA 94103
Office (415) 558-6133 – FAX (415) 558-6686 – www.sfgov.org/dbi



Date Filed:

BOARD OF APPEALS

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

JAN 25 2017

APPEAL # 17-010

PRELIMINARY STATEMENT OF APPEAL

I / We, **Philip Achilles**, hereby appeal the following departmental action: **ISSUANCE of Notice of Violation**
Complaint No. 2016-015701ENF by the **Zoning Administrator** which was issued or became effective on:
January 11, 2017, for the property located at: **819 Ellis 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: **March 02, 2017, (no later than three Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible. *RM*

ZA
Respondent's and *Other Parties'* Briefs are due on or before: **March 16, 2017, (no later than one Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with eleven (11) copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day. In addition, an electronic copy should be emailed to: boardofappeals@sfgov.org if possible.

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

Hearing Date: **Wednesday, March 22, 2017, 5:00 p.m., City Hall, Room 416**, One Dr. Carlton B. Goodlett Place.

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 submit eleven (11) copies of all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. 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 at the Board's office. 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.

If you have any questions please call the Board of Appeals at 415-575-6880

The reasons for this appeal are as follows:

Filing an appeal regarding Notice of Violation. In progress of obtaining change of use permit and getting bank loans for financing construction costs.

Appellant or Agent (Circle One):

Signature: *[Handwritten Signature]*

Print Name: *KATHLEEN MCCANN*



SAN FRANCISCO PLANNING DEPARTMENT

NOTICE OF VIOLATION

January 11, 2017

Property Owner

Achilles Revocable Trust; attn.: Philip Achilles
819 Ellis Street
San Francisco, CA 94109

Business Owner

American International Hostel
819 Ellis Street
San Francisco, CA 94109

Site Address: 819 Ellis Street
Assessor's Block/Lot: 0739/ 015
Zoning District: NC-3, Neighborhood Commercial, Moderate Scale
Complaint Number: 2016-015701ENF
Code Violation: Section 171, Compliance of Uses Required
 Section 712.55, Tourist Hotels in NC-3 Zoning Districts
Administrative Penalty: Up to \$250 Each Day of Violation
Response Due: Within 15 days from the date of this Notice
Staff Contact: Matthew Dito, (415) 575-9164, matthew.dito@sfgov.org

BOARD OF APPEALS

JAN 25 2017

APPEAL # 17000

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

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

DESCRIPTION OF VIOLATION

The subject property is deemed to be in violation of Planning Code Section 171 for the operation of a Group Housing¹ use without benefit of a Building Permit Application. Additionally, the subject property is deemed to be in violation of Planning Code Section 712.55 for the operation of a Tourist Hotel² use (dba American International Hostel) without Conditional Use Authorization.

¹ Pursuant to Planning Code Section 790.88(b), Group Housing is defined as a "residential use which provides lodging or both meals and lodging without individual cooking facilities for a week or more at a time in a space not defined as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding house, guest house, lodging house, residence club, commune, fraternity and sorority house, monastery, nunnery, convent, and ashram."

² Pursuant to Planning Code Section 790.46, a Tourist Hotel is defined as a "retail use which provides tourist accommodations, including guest rooms or suites, which are intended or designed to be used, rented, or hired out to guests (transient visitors) intending to occupy the room for less than 32 consecutive days."

BOARD OF APPEALS

819 Ellis Street

Complaint No.: 2016-015701ENF

Notice of Violation

January 11, 2017

JAN 25 2017

APPEAL # 17-010

The subject property, an approximately 29,000 square foot building, is currently authorized for use as a Private Parking Garage³.

In July 2014, following enforcement actions (13288_ENF, Notice of Violation and Penalty enclosed) taken by the Planning Department, a Conditional Use Authorization Application (Case No. 2014.1053C) was filed to legalize the use of the subject property as a Tourist Hotel. In conjunction with the Conditional Use application, Building Permit Application No. 201406037353 was submitted to legalize the use of the subject property as a Tourist Hotel.

On October 1st, 2014, a second Notice of Planning Department Requirements (NOPDR #2, enclosed) was issued. It required certain actions be taken by the applicant before the Conditional Use Authorization Application could move forward. Action No. 1 in NOPDR #2 stated "Please Cease and Desist all illegal dwelling and hosteling operations." To date, no evidence has been submitted to show that the use has been ceased, nor any other action in the notice complied with. As a result of the inactivity and inaction, the Conditional Use Authorization Application (2014.1053C) was cancelled by the Planning Department on January 3, 2017. In addition, the Building Permit Application was routed to the Department of Building Inspection with a request for cancellation.

Contrasting the applications to legalize the use, a separate Building Permit Application (No. 201412163836) was applied for in December 2014 to "remove construction done without permit on 3rd and 2nd" floor. This permit was intended to remove the unauthorized Tourist Hotel use, and restore the property to its authorized use solely as a Private Parking Garage. This application is still in the review process, and has not been issued.

Despite the filing of an application to remove the unpermitted construction, a site inspection conducted on November 1, 2016 by Housing Inspection Services (HIS) of the Department of Building Inspection (DBI) revealed that the subject property was being used as a Group Housing and/or Tourist Hotel use. In the NC-3 Zoning District, where the subject property is located, Group Housing is principally permitted; however, the use is not authorized and requires a Building Permit Application be issued and completed to legalize the use.

On December 20, 2016, Planning Department Staff Matthew Dito and Carly Grob attempted to conduct a site inspection of the subject property; however, the operator of the Tourist Hotel and Group Housing uses was not present. A business card was left with the operator of the parking garage.

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

³ Pursuant to Planning Code Section 102, a Private Parking Garage is defined as a "Non-Retail Automotive Use that provides temporary parking accommodations for automobiles, trucks, vans, bicycles, or motorcycles in a garage not open to the general public, without parking of recreational vehicles, mobile homes, boats, or other vehicles, or storage of vehicles, goods, or equipment."

JAN 25 2017

APPEAL # 17-010

TIMELINE OF INVESTIGATION

On June 27, 2014, Case 13288_ENF was opened for the operation of an unauthorized Tourist Hotel.

On July 9, 2014, a Conditional Use Authorization Application (2014.1053C) was filed to legalize the unauthorized Tourist Hotel at the subject property.

On October 1, 2014, a Notice of Violation and Penalty was issued for the continued operation of the unauthorized Tourist Hotel, substantiated by active online listings. Additionally, a second Notice of Planning Department Requirements (NOPDR #2) was issued, as the Conditional Use Authorization Application was incomplete.

On July 28, 2015, Case 13288_ENF was closed following the payment of outstanding fines and fees, as well as the unauthorized Tourist Hotel use being vacated.

On December 8, 2016, Case 2016-015701ENF was opened when it was brought to the attention of the Planning Department that the unauthorized Tourist Hotel use had resumed. Additionally, per Housing Inspection Services (Department of Building Inspection), the subject property was in operation of an unauthorized Group Housing use, as one occupant indicated they had been residing at the property for two weeks. The report from Housing Inspection Services was dated November 1, 2016.

On December 12, 2016, a Notice of Enforcement (enclosed) was issued to the property owner, detailing the violations and abatement steps. The notice allowed for fifteen days from the date of the notice to contact the staff planner and take action.

On December 15, 2016, the property owner (Mr. Philip Achilles) submitted a request for a 30 day extension beyond the allotted fifteen days. That same day, staff informed Mr. Achilles that the request would not be granted, as approximately two and a half years had passed without permanent abatement since the issue was first communicated.

On December 20, 2016 Planning Department Staff Matthew Dito and Carly Grob attempted to conduct a site inspection of the subject property; however, the operator of the Tourist Hotel and Group Housing uses was not present. A business card was left with the operator of the parking garage. No response has been received from the owner of the property.

On January 3, 2017, as a result of inactivity and inaction, the Conditional Use Authorization Application (2014.1053C) was cancelled by the Planning Department, and Building Permit Application No. 201406037353 was routed to the Department of Building Inspection with a request cancellation.

HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately proceed to abate the violation by ceasing the Group Housing and/or Tourist Hotel uses or legalizing such uses within fifteen (15) days from the date of this notice.

Additionally, to restore the subject property to its authorized use as a Private Parking Garage, you must pursue completion of Building Permit Application No. 201412163836. If the Group Housing and Tourist Hotel uses are not ceased within fifteen (15) days from the date of this notice, further enforcement actions may be taken.

JAN 25 2017

APPEAL # 17-010

If you wish to legalize the use of the subject property as a Group Housing use, a Building Permit Application must be filed within fifteen (15) days from the date of this notice. Until such Building Permit Application is approved, issued, and completed, the operation of such use should cease until such time that the subject property meets all applicable Municipal Code requirements and regulations for habitability.

A site inspection is required to verify compliance. Contact the staff planner noted above (Matthew Dito) to schedule.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: 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 or website: 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 either;

- 1) Correct the violation as noted above; or
- 2) Appeal this Notice of Violation as noted below.

The corrective actions shall be taken as early as possible. Please contact the enforcement staff as noted above to submit evidence of correction. Any unreasonable delays in abatement of the violation 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. 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. The Board of Appeals 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 has been pending either before the Zoning Administrator or before the Board of Appeals.

ADMINISTRATIVE PENALTIES

819 Ellis Street
Complaint No.: 2016-015701ENF

BOARD OF APPEALS

JAN 25 2017

Notice of Violation
January 11, 2017

APPEAL # 17-010

If any responsible party does not request any appeal process and does not take corrective action to abate the violation **within the 15-day time limit** as noted above, this Notice of Violation will become final. 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. The penalty amount shall be paid **within 30 days** from the final date of the Notice of Violation. After 30 days, the Planning Department may forward the matter to the Bureau of Delinquent Revenue for collection as authorized by Article V, Section 10.39 of the San Francisco Administrative Code. 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 **\$1,308.00** for 'Time and Materials' cost associated with the Code Enforcement investigation. **Please submit a check payable to 'San Francisco Planning Department' for Code Enforcement within 15 days from the date of this notice.** Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties as noted above and is not appealable.

OTHER APPLICATIONS UNDER CONSIDERATION

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

Please contact the enforcement planner noted above if you have any questions or wish to review the enforcement file related to the above matter. The enforcement file may be available for public inspection at the Planning Department during normal office hours (Monday to Friday, 8:00 a.m. to 5:00 p.m., 1650 Mission Street, Room 400) and in the hearing room on the date the matter is scheduled to be heard upon receipt of a request for a hearing.

Sincerely,



Scott F. Sanchez
Zoning Administrator

Enc.: Notice of Enforcement, dated December 12, 2016
Notice of Planning Department Requirements #2, dated October 1, 2014
Notice of Violation and Penalty, dated October 1, 2014

819 Ellis Street
Complaint No.: 2016-015701ENF

Notice of Violation
January 11, 2017

cc: Christopher Grady, Housing Inspection Services, Department of Building Inspection
Carly Grob, Planner, Northeast Quadrant, San Francisco Planning Department

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