BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of		Appeal No. 21-010
ROBERT KORMAN,)	
	Appellant(s))	
)	
VS.)	
ZONING ADMINISTRATOR,)	
·	Respondent	

NOTICE OF APPEAL

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

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

APPLICATION NO. 2018-015640ENF

FOR HEARING ON May 5, 2021

Address of Appellant(s):	Address of Other Parties:	
Robert Korman, Appellant(s) c/o Chris Cannon, Attorney for Appellant(s) Sugarman and Cannon 737 Tehama Street, Suite 3 San Francisco, CA 94103	N/A	



Date Filed: February 8, 2021

CITY & COUNTY OF SAN FRANCISCO BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 21-010

I / We, Robert Korman, hereby appeal the following departmental action: ISSUANCE of Notice of Violation & Penalty No. 2018-015640ENF by the Zoning Administrator which was issued or became effective on:

January 27, 2021, for the property located at: 2455 Jackson Street.

BRIEFING SCHEDULE:

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

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

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

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

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

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

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

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. 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/boaYou 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: Matt Laws, Attorney for Appellant

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

ATTORNEYS AT LAW 737 TEHAMA STREET, No. 3 SAN FRANCISCO, CALIFORNIA 94103

(415) 362-6252

February 8, 2021

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

VIA email at boardofappeals@sfgov.org, julie.rosenberg@sfgov.org

Re: Preliminary Statement of Appeal - January 27, 2021 Violation and Penalty Decision of the San

Francisco Planning Department, Zoning Administrator, Complaint Number: 2018-015640ENF

Site Address: 2455 Jackson Street,

Board of Appeals,

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

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

//

//

//

San Francisco Board of Appeals February 8, 2021

Page 2 of 2

Finally, the ZA shifted the burden of proof in requiring Korman to provide "evidence to demonstrate that

there was no violation," which violated due process. The ZA followed an unconstitutional burden shifting

procedure, requiring the "responsible party" to "show cause show cause why the notice requiring the cessation,

removal or correction of the violation and any assessment of administrative penalties is in error and should be

rescinded," as set forth in §176(c) of the San Francisco Planning Code.

Sincerely,

/s

Christopher J. Cannon Matthew A. Laws

cc Bob Korman enc



VIOLATION AND PENALTY DECISION

January 27, 2021

Property Owner

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

Site Address: 2455 Jackson Street

Assessor's Block/Lot: 0606/024

Zoning District: RH-2, Residential- House, Two-Family

Complaint Number: 2018-015640ENF

Code Violation: Sections 171, 172, & 175, Construction without Permits

Administrative Penalty: \$250 Each Day of Violation

Enforcement T & M Fee: \$7,619.91 (Current Fee, Additional charges may apply)

Response Due: Within 15 days from the date of this Notice

Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

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

Background

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

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

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

Description of Violation

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

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

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

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

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

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

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

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

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

Timeline of Investigation

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

Evidence Presented at the Zoning Administrator Hearing

Details of the hearing are discussed below.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

Submittals and Consideration After the Hearing

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

Planning Code Section 171 requires that the above property shall be used only as authorized. Planning Code Section 172 requires that no structure shall be constructed, reconstructed, enlarged, altered, or relocated in a manner that is not permissible under the limitations set forth in the Planning Code for the district in which such structure is located. Planning Code Section 175 requires a Building Permit for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code. Planning Code Section 317(c)(1) requires a Conditional Use Authorization (CUA) for the removal or merger of residential units.

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

Decision

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



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

The subject property owner shall abate the violation as follows:

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

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

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

The responsible party will need to provide adequate evidence to demonstrate that the violation has been abated. The work approved under any permits to abate violation must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

Please visit DBI website, https://sf.gov/apply-building-permit for information on the permit application process.

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

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

49 South Van Ness Avenue, 2nd/5th Floor (To submit permits only)

San Francisco, CA 94103 Phone: 628.652.3200

Email: dbicustomerservice@sfgov.org

Website: www.sfgov.org/dbi

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

49 South Van Ness Avenue, 2nd Floor (By Appointment only to submit permits)

San Francisco, CA 94103 Phone: 628.652.7300



Email: pic@sfgov.org

Website: www.sfplanning.org

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

Timeline to Respond

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

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

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

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

Administrative Penalties

If any responsible party does not appeal this notice to the Board of Appeals within 15-days from the date of this notice, this Violation and Penalty Decision notice will become final. However, administrative penalties will not begin to accrue until the 15-day period to respond expires. Beginning on the following day, administrative penalties of up to \$250 per day to the responsible party will start to accrue for each day the violation continues unabated. If such penalties are assessed, the Planning Department will issue a Notice of Penalty, and the penalty amount shall be paid within 30 days from the issuance date of Notice of Penalty. Additional penalties will



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

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for "Time and Materials" to recover the cost of correcting Planning Code violations. Accordingly, a fee of \$7,619.91 for "Time and Materials" cost associated with the Code Enforcement investigation is now due to the Planning Department. Please submit a check payable to 'Planning Department Code Enforcement Fund' within 15 days from the date of this notice. Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties as described above and is not appealable.

Failure to Pay Penalties and Fees

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

Appeal

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

49 South Van Ness Avenue, Suite 1475

San Francisco, CA 94103 Phone: 628.652.1150

Email: <u>boardofappeals@sfgov.org</u> Website: <u>www.sfgov.org/bdappeal</u>

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

Sincerely,

Corey A. Teague, AICP Zoning Administrator

6717m



Enc.: Notice of Violation dated May 29, 2020

cc: Christopher J. Cannon via email

John Hinchion, DBI, Code Enforcement Division via email



12

NOTICE OF VIOLATION

May 29, 2020

Property Owner

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

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

Reception: 415.558.6378

415.558.6409

Planning

Information: 415.558.6377

Site Address: 2455 Jackson Street

Assessor's Block/Lot: 0606/024

Zoning District: RH-2, Residential, House, Two-Family

Complaint Number: 2018-015640ENF

Code Violation: Sections 171 & 172, 175, Construction without Permits

Administrative Penalty: Up to \$250 Each Day of Violation

Response Due: Within 15 days from the date of this Notice

Rachna, (415) 575-6806, Rachna.Rachna@sfgov.org **Staff Contact:**

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

DESCRIPTION OF VIOLATION

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

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

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

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

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

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

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

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

TIMELINE OF INVESTIGATION

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

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

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

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

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

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

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

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

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

Notice of Violation May 29, 2020

2455 Jackson Street Complaint No.: 2018-015640ENF

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

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

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

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

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

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

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

HOW TO CORRECT THE VIOLATION

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

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

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

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

3

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

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

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

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

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

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

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

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

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

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

TIMELINE TO RESPOND

A Shelter in Place order was issued for San Francisco due to the COVID-19 virus on March 16, 2020, which was set to expire on April 7, 2020. Order of the Health Officer No. C19-07b was issued for San Francisco on March 31, 2020, and it extended the previously issued Shelter in Place from April 7, 2020 to May 3, 2020.

SAN FRANCISCO
PLANNING DEPARTMENT 4

On April 29, 2020, Order of the Health Officer No. C19-07c further extended the previously issued Shelter in Place to May 31, 2020. Additionally, City agencies may not be able to process necessary applications to abate violations during the Shelter in Place (for example, the Department of Building Inspection). You can find more information from the City regarding the Shelter in Place here: www.sf.gov/topics/coronavirus-covid-19.

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

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

APPEAL PROCESSES

If the responsible party believes that this order to remove violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available <u>within fifteen (15)</u> <u>days from the date of this notice</u>:

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

1650 Mission Street, Room 304 San Francisco, CA 94103 telephone: (415) 575-6880

website: www.sfgov.org/bdappeal.

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

ADMINISTRATIVE PENALTIES

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

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of \$3783.75 for 'Time and Materials' costs associated with the Code Enforcement investigation. Please submit a check payable to "Planning Department Code Enforcement Fund" within 15 days from the date of this notice. Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties described above and is not appealable.

FAILURE TO PAY PENALTIES AND FEES

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

OTHER APPLICATIONS UNDER CONSIDERATION

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

Sincerely,

Tina Tam

Acting Zoning Administrator

Enc.: Notice of Enforcement dated July 22, 2019

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

NOTICE OF ENFORCEMENT

1650 Mission St. Suite 400 San Francisco,

CA 94103-2479

415.558.6378

415.558.6409

415.558.6377

Reception:

Fax:

Planning

Information:

July 22, 2019

Property Owner

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

Site Address: 2455 Jackson Street

Assessor's Block/Lot: 0606/024

Zoning District: RH-2, Residential- House, Two Family

Complaint Number: 2018-015640ENF

Code Violation: Sections 171 & 172, Construction without Authorization

Section 317, Possible Residential Merger without Authorization

Administrative Penalty: Up to \$250 Each Day of Violation

Response Due: Within 15 days from the date of this Notice

Staff Contact: Rachna, (415) 575-6806, Rachna.Rachna@sfgov.org

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

DESCRIPTION OF VIOLATION

Our records indicate that the subject property is currently authorized as a five-family dwelling. The violation pertains to the unauthorized construction and removal of a dwelling at the subject property. Pursuant to Planning Code Section 317, a Conditional Use Authorization is required for the merger of two residential units. Pursuant to Department of Building Inspection (DBI) Complaint No. 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without benefit of permits.

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

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

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

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

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

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

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

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

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

Pursuant to Planning Code Section 172, no structure shall be constructed, reconstructed, enlarged, altered, or relocated in a manner that is not permissible under the limitations set forth in the Planning Code for the district in which such structure is located. Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code.

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

HOW TO CORRECT THE VIOLATION

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

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

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

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. A site visit may also be required to verify compliance.

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

TIMELINE TO RESPOND

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

PENALTIES AND APPEAL RIGHTS

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

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

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of \$1485.20 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative penalties as noted above and is not appealable. The Planning Department will notify you when this fee is payable.

OTHER APPLICATIONS UNDER CONSIDERATION

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

cc: John Hinchion and Kevin Birmingham, DBI

BRIEF(S) SUBMITTED BY APPELLANT(S)

1	CHRISTOPHER J. CANNON, State Bar No. 88034 MATTHEW A. LAWS, State Bar No. 273697	
2	Sugarman & Cannon	
3	737 Tehama Street, No. 3 San Francisco, CA 94103	
J	Telephone: 415-362-6252 Facsimile: 415-362-6431	
4		
5	chris@sugarmanandcannon.com	
6	Attorneys for Appellant ROBERT KORMAN	
7	SAN FRANCISCO CITY AND C	OUNTY BOARD OF APPEALS
8	ROBERT KORMAN AND THE KORMAN FAMILY IRREVOCABLE TRUST,	Case No. 21-010
9		APPELLANT ROBERT KORMAN'S
10	Appellant,	OPENING BRIEF
	VS.	
11	SAN FRANCISCO PLANNING DEPARTMENT	
12	AND ZONING ADMINISTRATOR,	
13	Appellee.	
14		_
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

APPELLANT ROBERT KORMAN'S OPENING BRIEF Case No. 21-010

i

TABLE OF CONTENTS

2	I.	INTRODUCTION1			
3	II.	PROCEDURAL HISTORY AND STATEMENT OF FACTS			
4	III.	II. THE PLANNING DEPARTMENT'S PROCEDURES AND STATUTORY SCHEME VIOLATE DUE PROCESS AND DO NOT PROVIDE FOR A FAIR HEARING			
5 6		A.	Federal and State Due Process protections apply to the Zoning Administrator's hearings		
7		B.	The Zoning Administrator held the hearing prematurely7		
8		C.	Inadequate notice and failure to provide supporting evidence violated Due Process8		
9 10		D.	The ZA relied entirely on hearsay evidence and witnesses without personal knowledge and therefore no substantial evidence supports the ZA's findings or decision		
11		E.	The Zoning Administrator inverted the burden of proof requiring Korman to prove he had not violated the building code.		
1213	IV.	CONC	CLUSION12		
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
2425					
26					
27					
28					

I. INTRODUCTION

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

II. PROCEDURAL HISTORY AND STATEMENT OF FACTS

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

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

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

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

27 // 28 //

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

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

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

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

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

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

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

(Exhibit 8 - May 29, 2020 NOV.) 1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Exhibit 13 VPD at p. 6.)

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

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

items were presented at the hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Code of Civil Procedure § 1094.5's requirement of a "fair trial means that there must have been a fair administrative hearing." (Gonzalez v. Santa Clara County Dept. of Social Services (2014) 223

Cal.App.4th 72, 96 [internal quotes omitted].) Generally, a fair procedure requires "notice reasonably calculated to apprise interested parties of the pendency of the action ... and an opportunity to present their objections." (Bergeron v. Department of Health Services (1999) 71 Cal.App.4th 17, 24; see also Rosenblit v. Superior Court (1991) 231 Cal.App.3d 1434, 1445 ["Notice of the charges sufficient to provide a reasonable opportunity to respond is basic to the constitutional right to due process and the common law right to a fair procedure."].)

B. The Zoning Administrator held the hearing prematurely.

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

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

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

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

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

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

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

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

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

. . .

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

(<u>Id</u>.)

From this description of the alleged violation, it appears Korman had done everything required to correct the alleged violation(s). Planning states the permit had been filed and remained in "triage."

There is nothing further that Korman is instructed to do in order for the permit to issue and the NOV does not describe any problems with the permit application or issuance procedure.

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

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

6

8

9

7

10 11

12 13

15 16

17

18

19

20 21

22 23

24

25

26

27

28

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

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

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

Walker v. City of San Gabriel (1942) 20 Cal.2d 879, involved the revocation of a license to operate an autowrecking business on the grounds of alleged misconduct in violation of city ordinances. (20 Cal.2d at 880.) A police officer representing the city read a letter addressed to the board and "signed by the chief of police of the city." The letter recited several charges against the petitioner to which no defense was offered. Counsel for Walker objected to the letter and stated there was no evidence before the city council and nothing for Walker to refute. (<u>Id</u>.) On appeal Walker argued that revoking the license, since the decisions was based on "hearsay evidence only," amounted to an arbitrary decision and evidence was insufficient to support the board's revocation of the license. (<u>Id</u>. at 881-82.) The Court held that "[t]he letter was competent only as a statement of the charges against the petitioner, but was not competent evidence of the truth of the charges stated therein." (<u>Id</u>. at 882.)

therefore constituted an abuse of the council's discretion. (<u>Id</u>. at 882.) The Court held that hearsay

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

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

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

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

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

1 At the hearing, as the language of the VPD makes clear, the burden was placed on the property owners to show there was no violation. This was not a fair hearing to determine whether there was a violation, "Mr. Teague then stated that the purpose of this hearing process was to reaffirm the violation;" 4 and ruled that "Moreover, you also did not provide any evidence to demonstrate that there was no 5 violation." (Exhibit 13 VPD at p. 8.) This inversion of the burden of proof was an additional violation of Korman's right to Due Process and a fair hearing. 6 7

IV. **CONCLUSION**

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

15

16

17

18

19

8

9

10

11

12

13

Dated: April 1, 2021

Respectfully submitted,

Christopher J. Cannon Matthew A. Laws

Attorneys for ROBERT KORMAN

20

21

22

23

24

25

26

27

28

DECLARATION OF SERVICE 2 I declare that I am over eighteen years of age and not a party to this action; that my business address is 737 Tehama Street #3, San Francisco, CA 94103; and that I am employed in the City and County of San 3 Francisco. 4 On APRIL 1, 2021, I served true copies of 5 APPELLANT ROBERT KORMAN'S OPENING BRIEF and EXHIBITS 1 - 14 6 () VIA MAIL by placing a copy of the document(s) listed above in a sealed envelope with appropriate postage in the United States Mail at San Francisco, California and addressed as shown below. I am 7 familiar with this firm's business practice for collection and processing written correspondence to be mailed with the United States Postal Service. I placed the sealed and stamped envelope in the 8 United States mail the same day as this declaration at San Francisco, California, in the ordinary course of business. 9 (X) VIA ELECTRONIC TRANSMISSION by emailing a PDF version of the document(s) listed above 10 to the parties identified below using the email addresses indicated. VIA FACSIMILE by transmitting a copy of the document(s) listed above to the fax number(s) set 11 forth below. 12 () VIA HAND DELIVERY by delivering a copy of the document(s) listed above as addressed below. 13 Scott F. Sanchez 14 Deputy Zoning Administrator 15 San Francisco Planning Department 49 South Van Ness Avenue, Suite 1400 San Francisco, CA 94103 16 scott.sanchez@sfgov.org 17 18 I declare under penalty of perjury that the foregoing is true and correct. 19 Executed on APRIL 1, 2021 at San Francisco, California. 20 21 Pooja Mithani 22 23 24 25 26 27

28

NOTICE OF COMPLAINT

December 21, 2018

Property Owner

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

Site Address:

2455 Jackson St

Block/Lot:

0606/024

Zoning District:

RH-2, Residential-House, Two Family

Complaint Number:

2018-015640ENF

Staff Contact:

Tina Tam, tina.tam@sfgov.org

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

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

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

Please submit your permit within 30 days of this notice.

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

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

Suite 400 San Francisco, CA 94103-2479 Reception:

1650 Mission St.

Reception: 415.558.6378

Fax: 415.558.6409

Planning Information: 415.558.6377

KECEIVED

JAN 08 2019

CITY & COUNTY OF S.F.

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

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

HAND DELIVERED

Job Site

2455 Jackson SF CA 94115 - Block 0606 - Lot 024

Planning Dept Complaint №

2018-015640ENF

Hello Tina Tam and Staff

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

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

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

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

We await your reply

Respectfully submitted

//s//

Bob Korman and Nancy Ryti

Copy - J Michael Anthony Esq

RECEIVED

Bob Korman + Nancy Ryti 3450 Sacramento 124 San Francisco CA 94118 March 07 2019 MAR 2 1 2019

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

HAND DELIVERED

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

Job Site

2455 Jackson SF CA 94115 - Block 0606 - Lot 024

Planning Dept Complaint Nº

2018-015640ENF

Hello Tina Tam

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

To date - you have not responded

We await your reply

Respectfully submitted

//s//

Bob Korman and Nancy Ryti

TEL # 415 \$464364 (MSG)

Copy - J Michael Anthony Esq

RECEIVED

MAR 0 8 2019 W when

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

RECEIVED

Bob Korman + Nancy Ryti 3450 Sacramento 124 San Francisco CA 94118 March 07 2019 MAR 2 1 2019

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

HAND DELIVERED

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

Job Site

2455 Jackson SF CA 94115 - Block 0606 - Lot 024

Planning Dept Complaint Nº

2018-015640ENF

Hello Tina Tam

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

To date - you have not responded

We await your reply

Respectfully submitted

//s//

Bob Korman and Nancy Ryti

TEL # 415 \$464364 (MSG)

Copy - J Michael Anthony Esq

RECEIVED

MAR 0 8 2019 W when

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

RECEIVED

JUN 17 2019

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

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

HAND DELIVERED

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

Direct 415 575 6806 - Dept 415 558 6377

Property Location Planning Department Complaint № Issue 2455 Jackson SF CA 94115 - Block 0606 - Lot 024 2018-015640ENF Reply Requested

Hello Rachna

Thank you for arranging our March 6 2019 meeting to discuss the above-captioned Planning Dept Complaint Please note below a summary focusing solely on principal highlights of our March 6 2019 conversation

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

Respectfully submitted

//s//

Bob Korman and Nancy Ryti

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

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

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

Reply requested to our 01 18 19 2-page fact & evidence based letter + attechnology - also due by Friday June 28, 2019

NOTICE OF ENFORCEMENT

1650 Mission St. Suite 400 San Francisco,

CA 94103-2479

415.558.6378

415.558.6409

415.558.6377

Reception:

Fax:

Planning

Information:

July 22, 2019

Property Owner

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

Site Address: 2455 Jackson Street

Assessor's Block/Lot: 0606/024

Zoning District: RH-2, Residential- House, Two Family

Complaint Number: 2018-015640ENF

Code Violation: Sections 171 & 172, Construction without Authorization

Section 317, Possible Residential Merger without Authorization

Administrative Penalty: Up to \$250 Each Day of Violation

Response Due: Within 15 days from the date of this Notice

Staff Contact: Rachna, (415) 575-6806, Rachna.Rachna@sfgov.org

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

DESCRIPTION OF VIOLATION

Our records indicate that the subject property is currently authorized as a five-family dwelling. The violation pertains to the unauthorized construction and removal of a dwelling at the subject property. Pursuant to Planning Code Section 317, a Conditional Use Authorization is required for the merger of two residential units. Pursuant to Department of Building Inspection (DBI) Complaint No. 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without benefit of permits.

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

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

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

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

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

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

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

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

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

Pursuant to Planning Code Section 172, no structure shall be constructed, reconstructed, enlarged, altered, or relocated in a manner that is not permissible under the limitations set forth in the Planning Code for the district in which such structure is located. Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code.

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

HOW TO CORRECT THE VIOLATION

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

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

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

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. A site visit may also be required to verify compliance.

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

TIMELINE TO RESPOND

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

PENALTIES AND APPEAL RIGHTS

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

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

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of \$1485.20 plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative penalties as noted above and is not appealable. The Planning Department will notify you when this fee is payable.

OTHER APPLICATIONS UNDER CONSIDERATION

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

cc: John Hinchion and Kevin Birmingham, DBI

Permit Details Report

Report Date: 2/10/2021 8:54:11 AM

Application Number: 201809281715

Form Number:

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

TO COMPLY WITH COMPLAINT #20188893 (9/26/2018) P/A 201712079370; Description:

201106218559, 201111148788, CHANGE VALUATION TO \$60,000

Cost: \$60,000.00

Occupancy Code:

Building Use: 24 - APARTMENTS

Disposition / Stage:

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

Contact Details:

Contractor Details:

License Number: 449260

ROBERT KORMAN Name:

Company Name: AAA CONCRETE CONST &PLUMB

3450 SACRAMENTO ST * SAN FRANCISCO CA Address:

94118

Phone:

Addenda Details:

Description:

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

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

Appointments:

	I I /	Appointment Code	Appointment Type	Description Time Slots
--	-------	---------------------	---------------------	---------------------------

Inspections:

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

Special Inspections:

Addenda No. Completed Date Inspected By Inspection Code Description Remarks

For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

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

Contact SFGov Accessibility Policies

City and County of San Francisco © 2021

NOTICE OF VIOLATION

May 29, 2020

Property Owner

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

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

Reception: 415.558.6378

415.558.6409

Planning

Information: 415.558.6377

Site Address: 2455 Jackson Street

Assessor's Block/Lot: 0606/024

Zoning District: RH-2, Residential, House, Two-Family

Complaint Number: 2018-015640ENF

Code Violation: Sections 171 & 172, 175, Construction without Permits

Administrative Penalty: Up to \$250 Each Day of Violation

Response Due: Within 15 days from the date of this Notice

Rachna, (415) 575-6806, Rachna.Rachna@sfgov.org **Staff Contact:**

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

DESCRIPTION OF VIOLATION

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

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

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

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

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

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

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

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

TIMELINE OF INVESTIGATION

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

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

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

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

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

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

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

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

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

Notice of Violation May 29, 2020

2455 Jackson Street Complaint No.: 2018-015640ENF

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

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

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

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

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

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

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

HOW TO CORRECT THE VIOLATION

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

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

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

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

3

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

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

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

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

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

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

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

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

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

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

TIMELINE TO RESPOND

A Shelter in Place order was issued for San Francisco due to the COVID-19 virus on March 16, 2020, which was set to expire on April 7, 2020. Order of the Health Officer No. C19-07b was issued for San Francisco on March 31, 2020, and it extended the previously issued Shelter in Place from April 7, 2020 to May 3, 2020.

SAN FRANCISCO
PLANNING DEPARTMENT 4

On April 29, 2020, Order of the Health Officer No. C19-07c further extended the previously issued Shelter in Place to May 31, 2020. Additionally, City agencies may not be able to process necessary applications to abate violations during the Shelter in Place (for example, the Department of Building Inspection). You can find more information from the City regarding the Shelter in Place here: www.sf.gov/topics/coronavirus-covid-19.

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

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

APPEAL PROCESSES

If the responsible party believes that this order to remove violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available <u>within fifteen (15)</u> <u>days from the date of this notice</u>:

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

1650 Mission Street, Room 304 San Francisco, CA 94103 telephone: (415) 575-6880

website: www.sfgov.org/bdappeal.

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

ADMINISTRATIVE PENALTIES

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

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of \$3783.75 for 'Time and Materials' costs associated with the Code Enforcement investigation. Please submit a check payable to "Planning Department Code Enforcement Fund" within 15 days from the date of this notice. Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties described above and is not appealable.

FAILURE TO PAY PENALTIES AND FEES

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

OTHER APPLICATIONS UNDER CONSIDERATION

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

Sincerely,

Tina Tam

Acting Zoning Administrator

Enc.: Notice of Enforcement dated July 22, 2019

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

Permit Details Report

Report Date: 2/9/2021 4:45:18 PM

Application Number: 201810314687

Form Number:

Address(es): $0606 / \, 024 / \, 12455 \, \mathrm{JACKSON} \, \mathrm{ST}$

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

Cost: \$2,000.00

Occupancy Code: R-2

Building Use: 24 - APARTMENTS

Disposition / Stage:

Description:

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

Contact Details: Contractor Details:

License Number: 449260

ROBERT KORMAN Name:

AAA CONCRETE CONST &PLUMB Company Name:

3450 SACRAMENTO ST * SAN FRANCISCO CA Address:

94118

Phone:

Addenda Details:

Description:

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

12	СРВ			628- 652-	
				3240	

Appointments:

Appointment	Appointment	Appointment	Appointment	Description Time Slots
Date	AM/PM	Code	Туре	Slots

Inspections:

Activity Date Inspector Inspection Description Inspection Status

Special Inspections:

Addenda No. Completed Date Inspected By Inspection Code Description Remarks

For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

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

Contact Accessibility Policies SFGov

FGov City and County of San Francisco © 2021

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

SUGARMAN & CANNON

ATTORNEYS AT LAW 737 TEHAMA STREET, No. 3 SAN FRANCISCO, CALIFORNIA 94103

(415) 362-6252

August 28, 2020

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

Via Certified mail and email Rachna@sfgov.org

Dear Ms. Rachna:

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

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

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

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

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

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

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

Ms. Rachna Rachna August 28, 2020 Page 2 of 2

I understand there are also allegations that Bob has expanded the building footprint. My understanding is that there has been no unpermitted expansion of the building footprint.

I think there also has been an issue regarding construction, permits and the timeline. As I understand things, DBI granted a permit so that Bob could correct any discrepancies, but for whatever reason, DBI now considers that permit invalid.

Bob applied for an additional permit in October 2018, but DBI has not yet acted on that permit. I would hope that once that permit is granted, Bob may cure the problems that led to that permit application.

It also seems that Bob was also granted another permit, but that permit was then withdrawn.

I also understand that Bob recently submitted a new application and a full set of drawings in an effort to resolve this matter.

I indicated above, what I would like to do is have a discussion about the issues, make sure I understand them, and determine whether those issues may be resolved.

If we cannot do that, this matter will obviously have to proceed to a hearing, which as indicated above, your Notice of Violation states that hearing cannot be scheduled until after the Shelter in Place Order is lifted.

You may reach me through my office, or email. I look forward to speaking with you and attempting to begin the process of resolving this matter. If you would like to schedule a Zoom call, that may be productive.

I thank you for your anticipated response.

Sincerely,
/s/
Christopher J. Cannon

EXHIBIT 11

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

1. Paper-formatted-only records to be <u>USPS-mailed</u> to Letterhead Appellants

2. Digitally-formatted-only records to be emailed to <<u>chris@sugarmanandcannon.com</u>>

Demanded Documents Shall Be Delivered to and Received by <u>All Recipients</u> Not Later than \text{\text{Ten [10] Days Prior to Any Respectively-Scheduled Various Hearings

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

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

CONDITIONALLY-PREDICATE LEGAL ISSUES

<u>Issue</u> - Appellants require prompt "<u>DUE PROCESS</u>" compliance with this "<u>Immediate [24 Hour] Disclosure Request</u>"

Issue - All records are Mandatory for Administrative & Judicial Hearings to be held by DBI-CE-AAB-CP-CA Officials

<u>lssue</u> - All demanded records are to be produced and delivered **not later than** ten [10] days **prior to any Hearing/s**

Issue - Failure to provide a complete and timely response shall trigger "All Due Process Rights on Appeal"

Issue - This Immediate Disclosure Request specifically & only relates to That Certain Property 2455 Jackson SF CA

DBI-CED-AAB-CP CASES

-		. 0/1020
1.	NOV	2018 88993
2.	CE-ENF	2018 88993-A
3.	AAB	6875
4.	CP NOV	.2018-015640ENF
5.	CA	."T.B.D."

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

IDENTITIES OF ALL HEARING WITNESSES

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

CREDENTIALS OF ALL HEARING WITNESSES

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

GOVERNMENT HEARING EXHIBITS TO BE PRODUCED

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

DOCUMENT DISCREPANCIES EXPLAINED

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

EMAIL COMMUNICATIONS DEMANDED

- **E.** True and correct copies of <u>date-time-stamped</u> <u>chronologically-sequenced</u> emails from July 01 2018 through September 30 2020, whether transmitted; sent; received; relayed; passed-on; or forwarded between any and/or all of the following individuals concerning 2455 Jackson SF CA
 - 1. Amy/all DBI-CE-AAB-DO-CP-CA Staff or Executive members or Department Heads or "otherwise designated"
 - 2. Any/all or other CCSF or California State Staff Employees Other or Interested Government Entities or Bodies
- 3. Any/all personnel including Members of Board of Supervisors; Mayor London Breed's staff; City Attorney; District Attorney and/or Other Interested Government Entities or Bodies
- 3. Any/all members of General Public including Adjacent Complainant Neighbors Neighborhood Associations

ETHICS and IMPLICIT BIAS CERTIFICATIONS REQUIRED

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

MANDATORY STIPULATION and AGREEMENT

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

MANDATORY VALIDATION AND CERTIFICATION

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

TIMELY COMPLIANCE WITH PRODUCTION-DEADLINE REQUIREMENT

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

Respectfully submitted

//s//

Nancy Ryti and Bob Korman - Appellants

Copy - Christopher Cannon Esq.

10/01/2020 DBI-CE MAN ORD 67-1(P) PROJESTS

Og Bo here



U.S. Postal Servicem

CERTIFIED MAIL

(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

Suror use state of the postage

Certified Fee

Return Receipt Fee (Endorsement Required)

Restricted Delivery Fee (Endorsement Required)

Total Postage & Fees \$

Total Postage & Fees \$

Total Postage & Fees \$

Street, Apt. No.:

OPEN DELIVERY Fee (City, State, ZiP+4)

Seen To Box No.

OPEN DELIVERY Fee (City, State, ZiP+4)

See Reverse for Instructive Postage (City, State, ZiP+4)

Se

7012 04 70 10 a

A-RTICUE TRACKIMAT +8
NO US. CS. FORM 3311

RETURN CAAD

OBCINERY MATE
10/05/2020@102
pm

10/01/2020





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

05:44 PM

Duplicate

Product

Unit Price

Price

First-Class Mail®

7020

\$0.55

San Francisco/ CA 94103 Weight: 0 lb 0.60 oz Estimated Delivery Date Mon 10/05/2020

Certified Mail® Tracking #:

\$3.5

70201290000068018369

1290 0000 6801 8369



SENDER: COMPLETE THIS SECTION COMPLETE THIS SECTION ON DELIVERY Complete items 1, 2, and 3. RANCISCO A. Signature Print your name and address on the reverse so that we can return the card to you. ☐ Agent ☐ Addressee B. Received by (Printed Name) ach this card to the back of the mailpiece, C. Date of Delivery Mwond front if space permits. 10/7/20 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: Service Type ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Adult Signature☐ Adult Signature Restricted Delivery Registered Mail Restricted Delivery Return Receipt for Merchandlse 95 90 9402 3756 8032 9157 13 Certified Mail® Certified Mail Restricted Delivery Collect on Delivery ☐ Signature Confirmation™☐ Signature Confirmation 2. Artic Number (Transfer from service label) ☐ Collect on Delivery Restricted Delivery 7020 1290 0000 6801 8369 lail Restricted Delivery Restricted Delivery

Domestic Return Receipt

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

10/01/2020 ORD 67.1(P)

24 (30/2020

GOLDEN GATE 3245 GEARY BLVD SAN FRANCISCO, CA 94118-9992

(800) 275-8777 10/01/2020

Duplicate

Product

Qty

Unit Price Price

05:46 PM

First-Class Mail®

1

\$0.55

Letter

San Francisco, CA 94102 Weight: 0 1b 0.60 oz

Estimated Delivery Date Mon 10/05/2020

Certified Mail® Tracking #:

\$3.5!

Domestic Return Receipt

70120470000048008616

7012 0470 0000 4800 8616

PS Form 3800, August 2006	OIPO BOX NO. A CARLITON CITY, STATE, ZIFFE SAN FRANCISCO	Sent To COSIC CITY M	(Endorsement Required) \$\ \frac{1}{5}\ \frac{5}{5}\ \frac{4}{5}\ \frac{7}{5}\ \frac	Return Receipt Fee (Endorsement Required)	Certified Fee	9	For delivery information visit our website allowww.usps.com	U.S. Postal ServiceTIM CERTIFIED MAILTIM RECEIPT (Domestic Mail Only; No Insurance Coverage
See Reverse for Instructions	ON, SIGN, ZIFF, ENVILSE CASHIOTEPLEM 325	Sent TO COLY MOUNTAINED LESS 1	10 HZOZ	Here Here Hostwark	,30 /	THE USE	ur website allwww.usps.com®	U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)

COMPLETE THIS SECTION ON DELIVERY SENDER: COMPLETE THIS SECTION A. Signature ■ Complete items 1, 2, and 3. ☐ Agent Print your name and address on the reverse ☐ Addressee so that we can return the card to you. C. Date of Delivery Received by (Rrinted Name) Attach this card to the back of the mailpiece, or on the front if space permits. D. Is delivery address different from item 1? 1. Article Addressed to: ☐ Yes COSE CITY ATTOMYS GITY HALL IM 375 1 C MRLYON GOOD YOTH P REANCISCO 3. Service Type ☐ Priority Mail Express® □ Registered Mail™ □ Registered Mail Restricted Delivery □ Return Receipt for Merchandise □ Signature Confirmation™ ☐ Adult Signature ☐ Adult Signature Restricted Delivery Certified Mail® Certified Mail Restricted Delivery 9590 9402 3756 8032 9157 20 Collect on Delivery ☐ Collect on Delivery Restricted Delivery 2 Article Number (Transfer from service label) Signature Confirmation Restricted Delivery 7012 0470 0000 4800 8616 ail Restricted Delivery

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

EXHIBIT 12

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

1. Paper-formatted-only records to be <u>USPS-mailed</u> to Letterhead Appellants

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

Nancy Ryti + Bob Korman 3450 Sacramento 124 San Francisco CA 94118 415 346 4364 Christopher Cannon Attorney at Law 737 Tehama St San Francisco CA 94103 415 362 6252

OCTOBER 09 2020

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

	AAB-Director's Office 1 - USPS Certified Mail - Restricted Delivery # 7020 1290 0000 6797 7636
	Attn - Edward Sweeney - Patrick O'Riordan - Director's Office
1136)	49 South Van Ness Ave
	San Francisco CA 94103-1226
	Mauricio.Hernandez@sfgov.org - < <u>Patrick.Oriordan@sfgov.org</u> > - < <u>Edward.Sweeney@sfgov.org</u> > <teresita.sulit@sfgov.org></teresita.sulit@sfgov.org>
	Attn - Tina Tam - Rachna.Rachna - Code Enforcement Division
	49 South Van Ness-Ave San Francisco CA 94103-1226
	san Francisco CA 94103-1220 <rachna.rachna@sfgov.org> - <<u>tinatam@sfgov.org</u>> <<u>chan.son@sfgov.org</u>></rachna.rachna@sfgov.org>
	- Tacima. Tacima (@sigov.org > - \text{umatam@sigov.org} > \text{citati.son@sigov.org}
	orney [CA] - USPS Certified Mail - Restricted Delivery
	City Hall - Room 325 - One Dr. Carlton B Goodlett Jr Place
F 1 V - /	San Francisco CA 94102-4630
1/000	< <u>Brad.Russi@sfcityatty.org</u> >
	Property
lecuo A	Appellants require prompt "DUE PROCESS" compliance with this "Immediate [24 Hour] Disclosure Request"
	In records are Mandatory for Administrative & Judicial Hearings to be held by DBI-CE-AAB-DO-CP-CA Officials
	Il demanded records are to be produced and delivered not later than one [01] day prior to any Hearing/s
	Failure to provide a complete and timely response shall trigger "All Due Process Rights on Appeal"
	This Immediate Disclosure Request specifically & only relates to That Certain Property sited at 2455 Jackson SF CA
DBI-CED	D-AAB-CP CASES
	2018 88993
	"T.B.D."
	INTINUANCE REQUESTED DUE TO NON-RECEIPT OF REQUESTED INFORMATION & SUNSHINE DOCUMENTS
	On June 10 2020 Appellants mailed to Planning a "Notice Requesting Sufficient Time to Obtain Legal Counsel"
	Our September 09 2020 letter explained that Chris Cannon began "interim negotiations" with Planning and DBI-CE-AAB
	On September 25, 2020 we submitted a Sunshine Ord §67.1 Request to DBI for "Prior Oral & Written Hearing Records"
	On September 30 2020 we submitted Ord §67.1 Request to DBI-CE-AAB-DO-CP-CA asking for "Hearing Information"
	To date we have NOT YET received a reply to our letter to you - or to our two "Immediate [24 Hour] Disclosure Requests"
	Mr Cannon - faced with unfamiliar, complex & nuanced details of DBI's + Planning's cases - needs additional review time
7.	He requires more time to review more than 1,250 paper documents coupled with more data stored on DBI CD-ROM disks

In the Twin Interests of Justice, Fair Play and Due Process - we request additional time requiring a Continued Hearing

8.

¹ Hereinafter known as "DO"

Appellants Demand Immediate "24 Hour" Production & Receipt of All Below-listed CCSF Information and Records

ALL COMMUNICATIONS - INCLUDING BUT NOT LIMITED TO EMAIL - USPS MAIL - COURIER/PERSONAL DELIVERY

WITH SPECIFIC-REFERENCE TO THE CERTAIN DBI-CE NOV-2018-88993 & CITY PLANNING 2018-015640ENF delineated below

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

Respectfully submitted
Copy - Christopher Cannon - Attorney at Law

Nancy Ryti and Bob Korman

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

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

3.14) (10/09/2020 ALL VOOR POR

70 20x (ce/14

Price \$0.55 \$3.55 GOLDEN GATE 3245 GEARY BLVD SAN FRANCISCO, CA 94118-9992 (800)275-8777 Unit San Francisco, CA 94103
Weight: 0 1b 0.60 oz
Estimated Delivery Date
Tue 10/13/2020
Certified Mail®
Tracking #. Duplicate First-Class Mail® Letter 0/09/2020 roduct

ERTIFIED MAII nestic Mail Only
delivery information, visit
Maried &
d Mail Fee \$3.55
ervices & Fees (check box, add fee
rn Receipt (electronic) \$
ified Mail Restricted Delivery \$ It Signature Required \$
t Signature Restricted Delivery \$
\$0.55
ostage and Fees \$6.95
DBT/CE/
49 50074 V

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only or delivery information, visit our website at www.usps.com

	an dept.
Certified Mail Fee \$3.55	MAS 0058
Firther Considers & Force (1)	3.
Extra Services & Fees (check box, add fee as appropriate)	
Return Receipt (hardcopy) \$	10'10
Return Receipt (electronic) \$	Postmark
Certified Mail Restricted Delivery \$	Here
Adult Signature Required \$	Digital and Application of the Control of the Contr
Adult Signature Restricted Delivery \$	
Decision 1	District Constitution of the
Postage \$0.55	in the first wears.
\$	
Total Postage and Fees	10/99/2020/
\$6.95	3 / 3/
	7 74/
Sent To	7- 41/
CCSF CONPLANNING ATT	V & RICENSON CHAM
Street and Apt. No., or PO Box No.	
49 SOUTH VAN NESS	A-05
Ully, State, 21745 SAN FRANCI	2500 C+99103
PS Form 3800, April 2015 PSN 7530-02-000-9047	See Reverse for Instructions

	X I		0	വ	ĺŎ	
MARKE VICE.	133		Price	\$0.55	\$3.55	
JINITED STATE	4RY BLVD CA 94118-975-8777	Duplicate	Oty Unit Price		94103 oz Date	679/16
CLTY PCHAMMA UNITED STATES POSTAL SERVICE.	GOLDEN GATE 3245 GEARY BLVD 1 FRANCISCO, CA 94118-9992 (800)275-8777 05:	Dupl	Ö	dail® 1	Weight: 0 1b 0.60 oz Estimated Delivery Date Tue 10/13/2020 Certified Mail®	/UZU129UUUUU6/9//629
219	SAN F 10/09/2020		Product	First-Class Mail®	San France Weight: (Estimated Tue 10/13 Certified	1020/

05:10 PM

10/09/2020

Duplicate

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

JNITED

Price	\$0.55	\$3.55	アトルコ
Product Oty Unit	First-Class Mail® 1	San Francisco, CA 94102 Weight: 0 1b 0.60 oz Estimated Delivery Date Tue 10/13/2020 Certified Mail®	5/1/2/1/2/1/2/1/2/1/2/1/2/2/2/2/2/2/2/2/

	디	CERTIFIED MAIL® RECEIPT Domestic Mail Only
	7	For delivery information, visit our website at www.u
		San Oranti Etol Co 9410 BOLDEN
	6797	Certified Mail Fee \$3.55
067977612	0000	Extra Services & Fees (check box, add fee as appropriate) Return Receipt (hardcopy) \$ Return Receipt (electronic) \$
000679		□ Certified Mail Restricted Delivery \$ □ Adult Signature Required \$ □ Adult Signature Restricted Delivery \$
29000	290	Postage \$0,55 \$ Total Postage and Fees
70201	7	* CCE F COTY ATTORVEYOU BY
		Sent To CCS F CLTY ATTEMY BRIDE Street and Apt. No., or PO Box No.
	70	1 CARLTON & GOOD CETT PL CIT

7	Domestic Mail Offiy
1	For delivery information, visit our webs
	San Organisto Co 941
_	Certified Mail Fee \$3.55
	Extra Services & Fees (check box, add fee as appropriate Return Receipt (hardcopy) Return Receipt (cleatopic)
	Return Receipt (electronic) Certified Mail Restricted Delivery Adult Signature Required
	Adult Signature Restricted Delivery \$
1	Postage \$0.55
1	Total Postage and Fees \$ CCC F CATY TOWER
ע חבים	Sent TO CCS & CITY MEERNEY
_	Street and Apt. No., or PO Box No.

U.S. Postal Service™

Domestic Mail Only

CERTIFIED MAIL® RECEIPT

City, State, ZIP+4®

U.S. Postal Service™

ite at www.usps.com

quier and sasy uneuk-out. Ally Kerall

PAID3

CA

94100

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

SENDER: COMPLETE THIS SECTION

Print your name and address on the reverse

so that we can return the card to you.

Complete items 1, 2, and 3.

COMPLETE THIS SECTION ON DELIVERY

Received by (Printed Name)

Agent

C. Date, of Delivery

Domestic Return Receipt

☐ Addressee

A. Signature

EXHIBIT 13



VIOLATION AND PENALTY DECISION

January 27, 2021

Property Owner

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

Site Address: 2455 Jackson Street

Assessor's Block/Lot: 0606/024

Zoning District: RH-2, Residential- House, Two-Family

Complaint Number: 2018-015640ENF

Code Violation: Sections 171, 172, & 175, Construction without Permits

Administrative Penalty: \$250 Each Day of Violation

Enforcement T & M Fee: \$7,619.91 (Current Fee, Additional charges may apply)

Response Due: Within 15 days from the date of this Notice

Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

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

Background

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

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

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

Description of Violation

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

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

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

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

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

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

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

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

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

Timeline of Investigation

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

Evidence Presented at the Zoning Administrator Hearing

Details of the hearing are discussed below.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

Submittals and Consideration After the Hearing

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

Planning Code Section 171 requires that the above property shall be used only as authorized. Planning Code Section 172 requires that no structure shall be constructed, reconstructed, enlarged, altered, or relocated in a manner that is not permissible under the limitations set forth in the Planning Code for the district in which such structure is located. Planning Code Section 175 requires a Building Permit for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code. Planning Code Section 317(c)(1) requires a Conditional Use Authorization (CUA) for the removal or merger of residential units.

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

Decision

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



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

The subject property owner shall abate the violation as follows:

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

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

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

The responsible party will need to provide adequate evidence to demonstrate that the violation has been abated. The work approved under any permits to abate violation must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

Please visit DBI website, https://sf.gov/apply-building-permit for information on the permit application process.

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

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

49 South Van Ness Avenue, 2nd/5th Floor (To submit permits only)

San Francisco, CA 94103 Phone: 628.652.3200

Email: dbicustomerservice@sfgov.org

Website: www.sfgov.org/dbi

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

49 South Van Ness Avenue, 2nd Floor (By Appointment only to submit permits)

San Francisco, CA 94103 Phone: 628.652.7300



Email: pic@sfgov.org

Website: www.sfplanning.org

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

Timeline to Respond

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

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

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

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

Administrative Penalties

If any responsible party does not appeal this notice to the Board of Appeals within 15-days from the date of this notice, this Violation and Penalty Decision notice will become final. However, administrative penalties will not begin to accrue until the 15-day period to respond expires. Beginning on the following day, administrative penalties of up to \$250 per day to the responsible party will start to accrue for each day the violation continues unabated. If such penalties are assessed, the Planning Department will issue a Notice of Penalty, and the penalty amount shall be paid within 30 days from the issuance date of Notice of Penalty. Additional penalties will



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

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for "Time and Materials" to recover the cost of correcting Planning Code violations. Accordingly, a fee of \$7,619.91 for "Time and Materials" cost associated with the Code Enforcement investigation is now due to the Planning Department. Please submit a check payable to 'Planning Department Code Enforcement Fund' within 15 days from the date of this notice. Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties as described above and is not appealable.

Failure to Pay Penalties and Fees

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

Appeal

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

49 South Van Ness Avenue, Suite 1475

San Francisco, CA 94103 Phone: 628.652.1150

Email: <u>boardofappeals@sfgov.org</u> Website: <u>www.sfgov.org/bdappeal</u>

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

Sincerely,

Corey A. Teague, AICP Zoning Administrator

6717m



Enc.: Notice of Violation dated May 29, 2020

cc: Christopher J. Cannon via email

John Hinchion, DBI, Code Enforcement Division via email



12

EXHIBIT 14

February 5, 2020

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

RE: 2455 Jackson Street; 2018-015640ENF

Nancy and Bob,

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

1650 Mission St. Suite 400

San Francisco, CA 94103-2479

415.558.6378

415.558.6409

Reception:

Fax:

Planning

Information: 415.558.6377

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

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

Sincerely

Chanbory Son **Executive Secretary Commission Affairs**

San Francisco Planning Department 1650 Mission Street, Suite 400 San Francisco, CA 94103

Direct: 415.575.6926 | www.sfplanning.org

San Francisco Property Information Map

BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)



Date: April 29, 2021 May 5, 2021 **Hearing Date:**

Appeal No.: 21-010

Address: 2455 Jackson Street

Block/Lot: 3721 / 014

Zoning/Height: RH-2 (Residential – House, Two-Family)

40-X Height and Bulk District

Staff Contact: Scott Sanchez, (628) 652-7320 or scott.sanchez@sfgov.org

INTRODUCTION

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

PROPERTY INFORMATION

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

Appeal No. 21-010

2455 Jackson Street

Hearing Date: May 5, 2021

ricaring bate. in

BACKGROUND

On January 27, 2021, the Zoning Administrator issued the VPD finding the Property in violation of the

Planning Code for work performed without required building permits. Planning Code Sections 171

(Compliance of Uses Required), 172 (Compliance of Structures, Open Spaces, and Off-Street Parking and

Loading Required) and 175 (Approval of Permits) require all uses and structures to comply with the

requirements of the Planning Code and building permits to be obtained to demonstrate compliance with the

Planning Code. The VPD provides a detailed chronology of the enforcement history for the Property and

details specific construction on the Property (as verified by DBI) performed without required building permits.

To date, the Appellant has not provided evidence that the work was performed with the required building

permits, nor have they diligently sought the required building permits to legalize work on the property. The

following is a summary of key background information for this violation.

On August 29, 2018, DBI received a complaint that a new story was being built at the back of the

Property (Complaint No. 201888993).

On October 4, 2018, DBI issued a Notice of Violation finding that extensive work at the roof level was

taking place without permits. The NOV followed numerous attempts by DBI to gain access and required the

Appellant to obtain a permit with plans to legalize work done without permit.

On October 31, 2018, the Appellant submitted Building Permit Application (BPA) No. 201810314687

"to comply w/NOV #201888993 per arch/engineer plans + calculations for property line infills on all floor levels;

replace + reinforce damaged portions of sloped roof rafters and wall studs and floor joists; to modify and

update PA 201508315739 voluntary bldg. retrofit (seismic)." On this permit, the Appellant states that the

Property contains 4 dwelling units, while the City's legal records indicate that the Property legally contains 5

dwelling units.

Plan Francisco

2

Appeal No. 21-010

2455 Jackson Street

Hearing Date: May 5, 2021

On November 27, 2018, DBI issued an amended Notice of Violation (NOV) after verifying outstanding

violations in a DBI inspection of the Property on October 23, 2018. The NOV found that extensive work had

been performed on the top floor and roof, including extensive reframing of roof structure; addition of

skylights, roof deck and expansion of top floor living space; and infill of west lightwell. These additions are

further confirmed by a review of publicly available aerial photography between 2002 and present (Exhibit A –

Aerial Photographs 2002 to Present) as available on the Planning Department's Property Information Map via

the SFGIS EagleView IPA / Integrated Pictometry App¹. There are no permits or plans on file for the Property

for the additions that are the subject of the NOV (Exhibit B – Building Permit Summary). The NOV required the

Appellant to submit architectural and structural drawings showing the extent of work done without permit

and obtain approval for such work from the Planning Department.

On December 21, 2018, the Planning Department opened Enforcement Case No. 2018-015640ENF in

response to DBI's NOV. In addition, the Planning Department issued a Notice of Complaint (NOC - Exhibit 1 of

Appellant's Brief). The NOC is a courtesy notice informing the property owner that a complaint has been filed

on a property.

In March 2019, the Appellant met with Planning Department staff, Rachna, to discuss the complaint.

Rachna informed the Appellant that BPA No. 201810314687 would need to be reviewed by the Planning

Department to ensure that the existing and proposed conditions of the building were properly documented

and all work without permit properly reviewed. Rachna informed the Appellant that he needed to submit

plans showing pre-existing conditions on the property and the scope of the unauthorized additions that need

to be legalized.

¹ Aerial photographs can be accessed through the Property Information Map at https://sfplanninggis.org/pim/. A direct link

to the subject property can be found at: https://sfgis-portal.sfgov.org/ipa?lat=37.79209&lon=-122.43542.

San Francisco

On July 22, 2019, the Planning Department issued a Notice of Enforcement (NOE - Exhibit 6 of

Appellant's Brief). In that notice, the Appellant was required to do the following by August 6, 2019: 1) submit

the pre-existing and proposed (as built) floor plans, elevations, sections, and "before" and "after" interior and

exterior photographs of the Property with BPA No. 201810314687; 2) file a Project Application (PRJ) with the

Planning Department; and 3) address the discrepancy in the unit count of the property by restoring the

property as 5 dwelling units, legalizing the merger of dwelling units or otherwise demonstrating that the

property contains 5 dwelling units. To date, the Appellant has not provided the materials requested in the

NOE.

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

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

On May 29, 2020, the Planning Department issued a NOV (Exhibit 8 of Appellant's brief) due to the lack

of response to the NOE, and the Appellant filed a request for Zoning Administrator hearing as provided in the

NOV.

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

015640ENF.

On October 21, 2020, the Abatement Appeals Board (AAB) heard an appeal of the OOA (Case No. 6875).

At this hearing, the AAB denied the appeal and upheld the OOA.

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

AAB denied the rehearing request.

On January 27, 2021, the Zoning Administrator issued the VPD finding the property to be in violation

of the Planning Code for work performed without required building permits.

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

Plan Francisco

4

Appeal No. 21-010

2455 Jackson Street

Hearing Date: May 5, 2021

ISSUES ON APPEAL

On April 1, 2021, the Appellant filed a brief for Appeal No. 21-010; however, they have failed to show

that the Zoning Administrator erred or abused their discretion in finding the Property in violation of the

Planning Code.

The Appellant argues that they have not been provided due process or a fair hearing; however, they

have failed to demonstrate that the City failed to provide due process. As outlined in the timeline above and

further detailed in the VPD, the Appellant has been provided clear and extensive notice of the nature of the

violations, through the Notice of Complaint, Notice of Enforcement, and Notice of Violation. Additionally, the

Appellant has been provided access to staff for meetings to discuss the complaint and the permit process to

resolve the violation. Unfortunately, the Appellant has not fully responded to the requirements outlined in

these documents to bring the Property into compliance with the Planning Code.

In addition, Appellant has been afforded extensive due process through the Zoning Administrator

Hearing, Violation and Penalty Decision, and this appeal to the Board of Appeals. Further, the Appellant has

been provided due process through a parallel enforcement process with DBI that has involved a site visit to

verify the violation, Notices of Violation, Director's Hearings, Order of Abatement, Appeal to Abatement

Appeals Board and Rehearing Request with the Abatement Appeals Board.

In an administrative hearing, all that is necessary to comport with due process "is that the procedures

be tailored, in light of the decision to be made, to 'the capacities and circumstances of those who are to be

heard,' [citation] ... to insure that they are given a meaningful opportunity to present their case." (Mathews v.

Eldridge, 424 U.S. 319, 349.) The Planning Department followed all of its standard procedures in this case.

These procedures, including numerous written and oral notices detailing the nature of the violations and

instructions for how to cure the violations, as well as a Zoning Administrator's hearing, gave Appellant, who

San Francisco

Appeal No. 21-010

2455 Jackson Street

Hearing Date: May 5, 2021

has been represented by counsel throughout these administrative proceedings, a meaningful opportunity to

present their case.

Contrary to Appellant's assertion, administrative hearings in land use matters need not comply with

formal rules of evidence, including the hearsay rule. It is well established that "a presentation to an

administrative agency may properly include evidence that would not be admissible in a court of law." (Mohilef

v. Janovici, 51 Cal. App. 4th 267, 294 (1996) (citing Carmel Valley View, Ltd. v. Board of Supervisors (1976) 58

Cal.App.3d 817, 823.) In Mohilef, the Court of Appeal rejected the proposition that the hearsay rule applied to

a hearing conducted by an associate zoning administrator in a nuisance abatement case, concluding that to

apply the hearsay rule would make the process overly technical, cumbersome and burdensome to the parties,

"injecting legalism" into a layperson's proceeding. (Id. at p. 295–96.) "In general, judicial attention is focused

upon the question whether the hearing was basically fair. If the board of adjustment in its conduct of the

hearing allowed all persons who desired to speak an opportunity to do so, and afforded to each side a fair

chance to articulate his point of view, reversal for failure to hold a fair hearing is unlikely." (Id.) In addition,

the court noted that due process does not require compliance with formal rules of evidence where an

administrative agency has conducted an investigation, prepared a written report, and visited the site. (Id.)

Furthermore, even if the hearsay rule did apply to the Zoning Administrator's hearing, the City's official

records are excepted from the hearsay rule under Evidence Code Section 1280, which creates an exception to

the hearsay rule for writings made within the scope of duty by a public employee, at or near the time of the

event, where the sources of information and time and method of preparation indicate its trustworthiness.

Appellant also incorrectly argues that the Zoning Administrator improperly "inverted" the burden of

proof. The Department's finding of a violation, and issuance of an NOV on that basis, are entitled to a

presumption of correctness. (Evid. Code Sec. 644, creating a presumption that an official duty has been

regularly performed; Lindell Co. v. Bd. of Permit Appeals of City & Cty. of San Francisco (1943) 23 Cal. 2d 303, 323

San Francisco

Appeal No. 21-010

2455 Jackson Street

Hearing Date: May 5, 2021

["In connection with the action of such a commission, composed usually of laymen, the fact that a certain

action is taken raises the presumption that the existence of the necessary facts had been ascertained and

found."]); Miller v. Plan. Comm'n of City of Torrance (1956) 138 Cal. App. 2d 598, 602 [grant of variance was

presumed to be supported by evidence]; Harrington v. City of Davis (2017) 16 Cal.App.5th 420, 436 [issuance of

conditional use permit, City was presumed to have regularly performed official duty]); Inyo Citizens for Better

Plan. v. Inyo Cty. Bd. of Supervisors (2009) 180 Cal. App. 4th 1, 13 ["...the presumption that an official duty has

been regularly performed (Evid.Code, § 664) shifts the burden of proving the foundational issue of

trustworthiness of the official action to the party objecting to the court's reliance on the official action."].)

The Appellant argues that the Zoning Administrator Hearing was held prematurely; however, this is

incorrect. This question was discussed at length during the Zoning Administrator Hearing. While it was noted

that the City was providing additional flexibility as part of the permit process to correct violations due to

COVID restrictions, it was noted that the NOV required that any appeals (either as an appeal directly to the

Board of Appeals or a request for a Zoning Administrator Hearing) be made "within 15 days of this notice."

The request for the Zoning Administrator hearing was timely filed within 15 days of NOV issuance and the

Zoning Administrator Hearing was properly held on October 13, 2020.

CONCLUSION

In light of the foregoing, the Planning Department respectfully requests that the Board of Appeals

deny the appeal and uphold the Zoning Administrator's Violation and Penalty Decision (VPD) for the Property.

Attachments:

Exhibit A: Aerial Photographs 2002 to Present

Exhibit B: Building Permit Summary

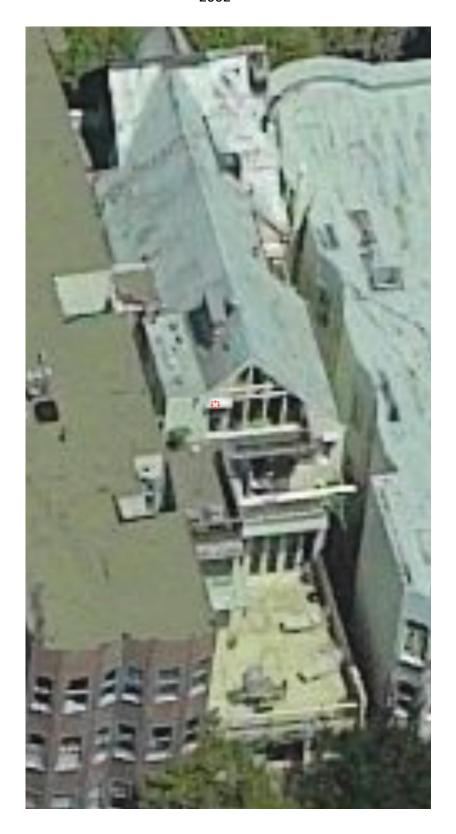
Cc: Chris Cannon, Sugarman and Cannon, Attorney for Appellant (by email)

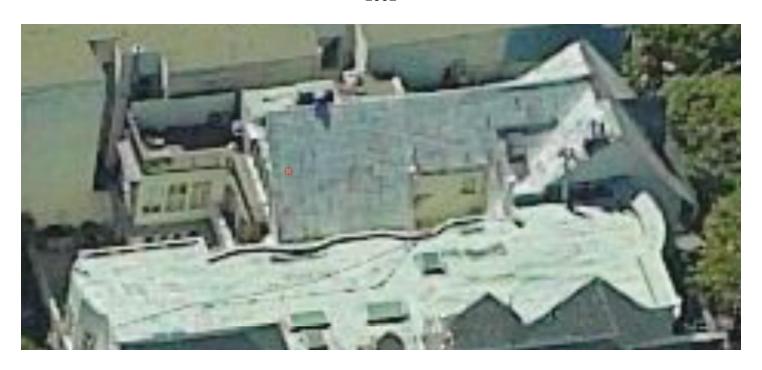
San Francisco

7

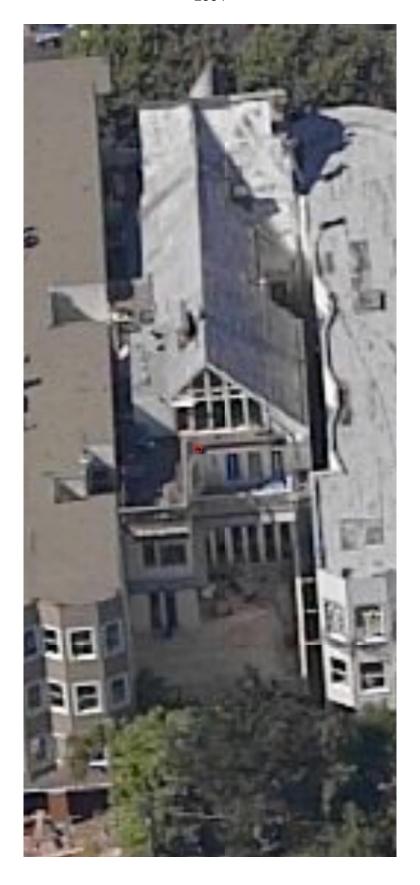
Exhibit A

2002

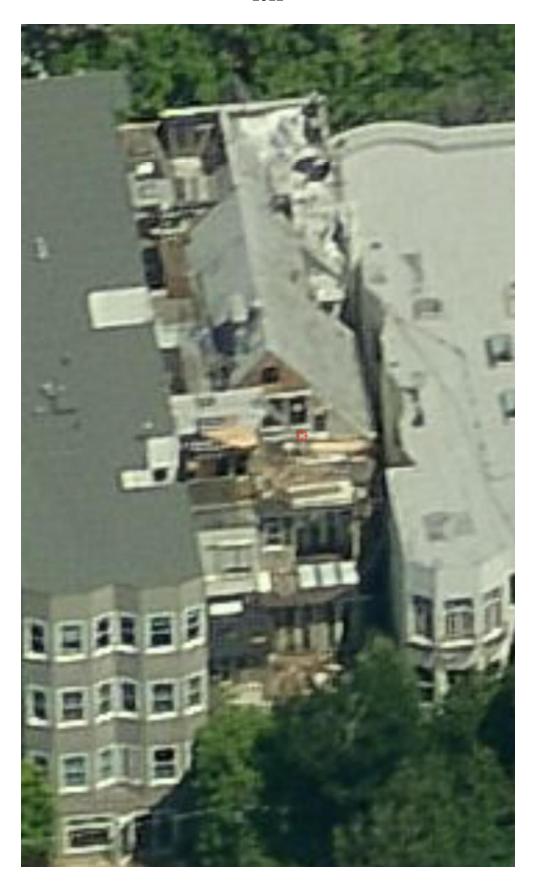


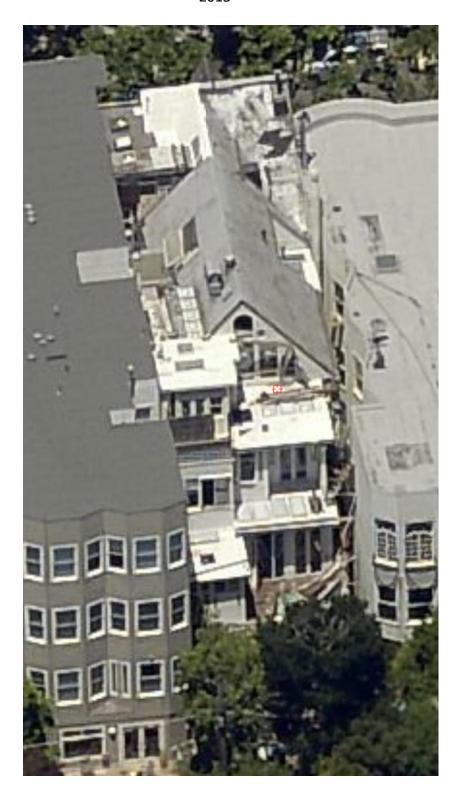


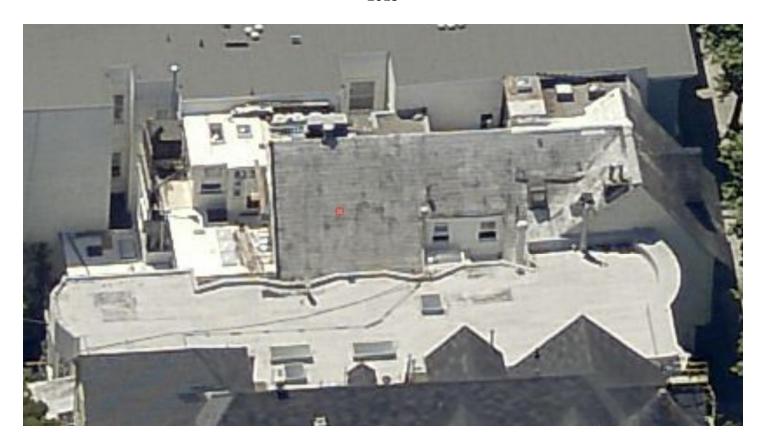


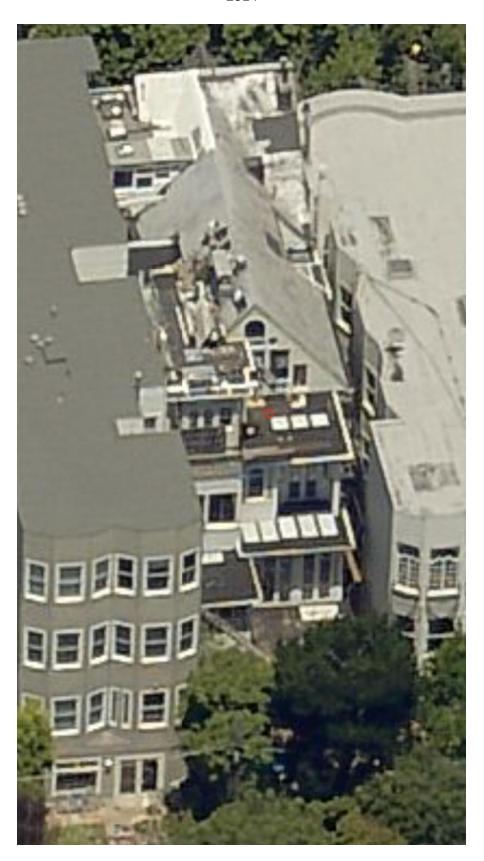


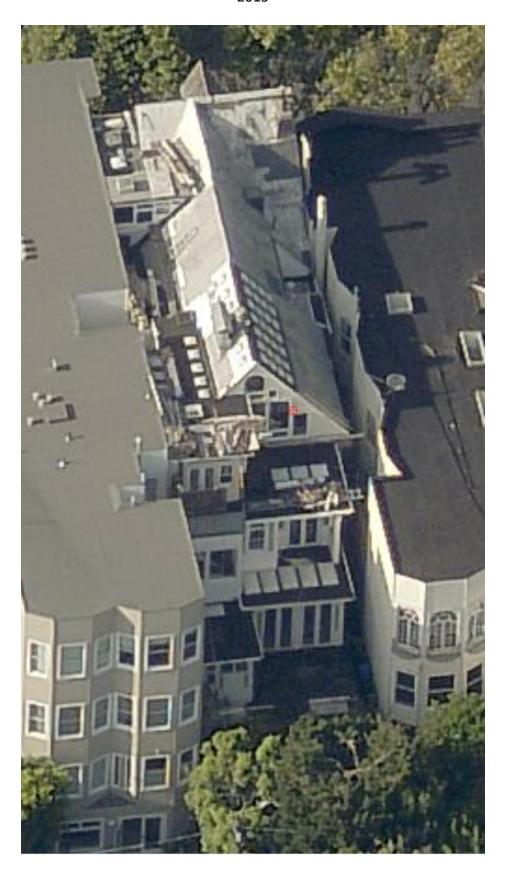


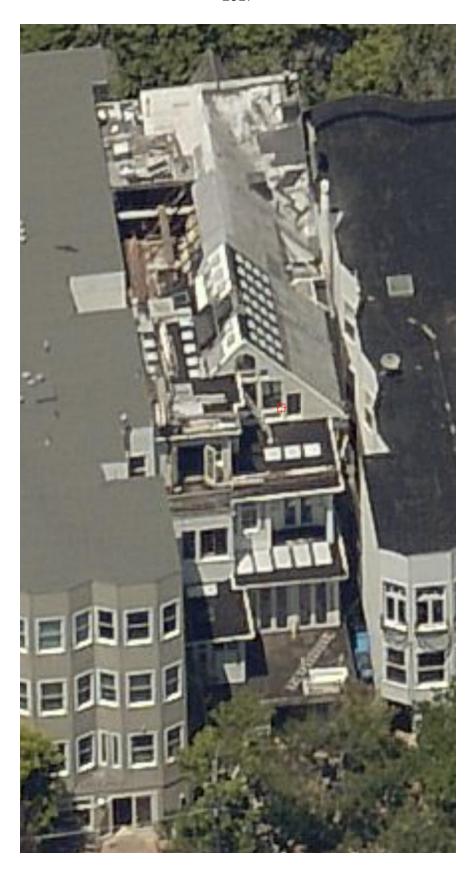


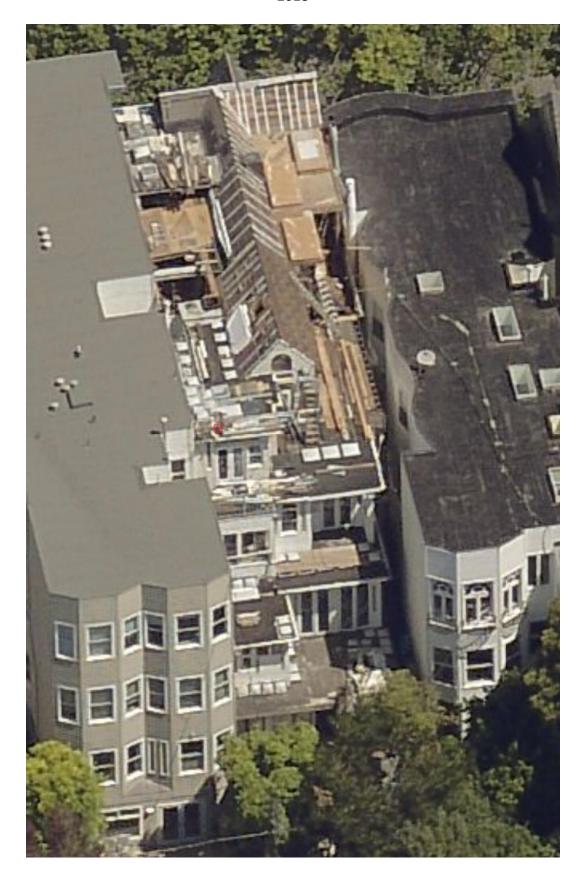


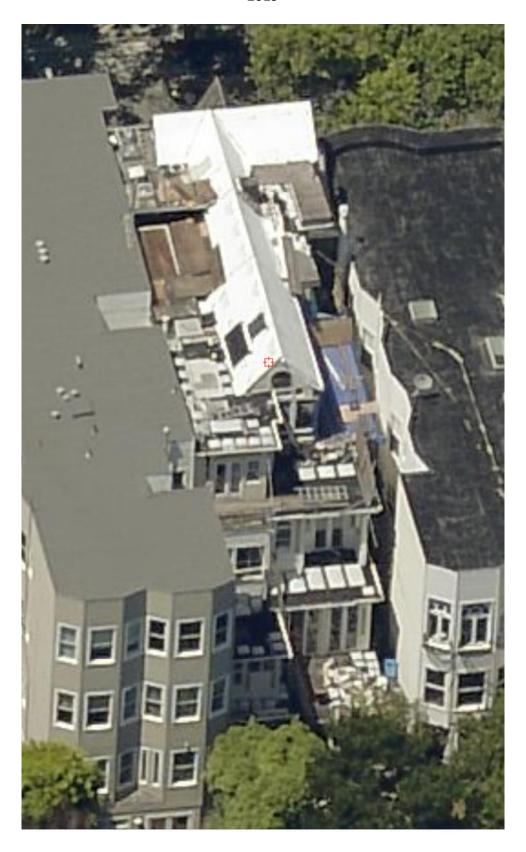






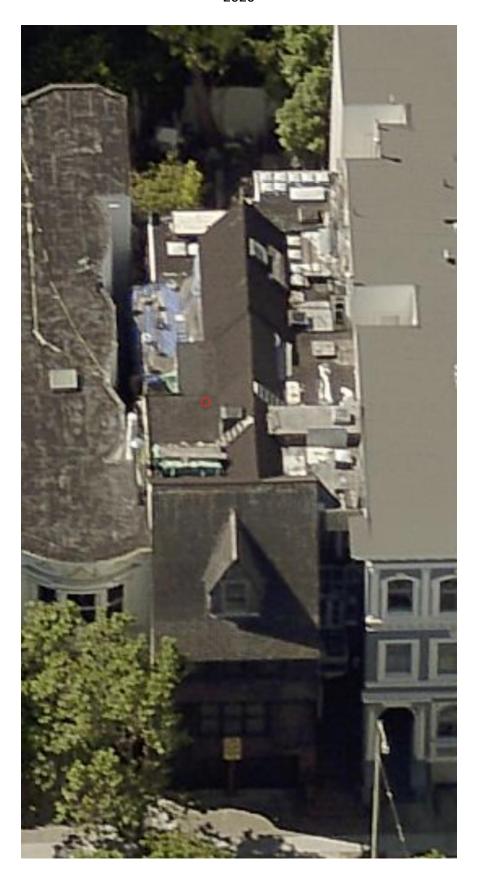














Report for: 2455 JACKSON ST

Building Permits

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

Active Permits

Permit 201810314687 🗗

Status: FILED Status Date: 10/31/2018

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

Originally Filed: 10/31/2018 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 4
Construction Cost: \$2,000.00 Proposed Units: 4

Completed Permits

Permit 201809281715

Status: EXPIRED Status Date: 12/6/2019

To comply with complaint #20188893 (9/26/2018) p/a 201712079370; 201106218559, 201111148788, change

valuation to \$60,000

Originally Filed: 9/28/2018 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$60,000.00Proposed Units:5

Permit 201706199683 🗗

Status: EXPIRED Status Date: 12/6/2019

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

201111148788

Originally Filed: 6/19/2017 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$1.00Proposed Units:5

Permit 201706199673 2

Status: EXPIRED Status Date: 12/6/2019

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

Originally Filed: 6/19/2017 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$10,000.00Proposed Units:5

Permit 201508315739 2

Status: EXPIRED Status Date: 12/6/2019

Voluntary seismic retrofit as built existing structure.

Originally Filed: 8/31/2015 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$75,000.00Proposed Units:5

Permit 201403039733

Status: COMPLETE Status Date: 4/26/2016

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

Originally Filed: 3/3/2014 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5

Construction Cost: \$60,000.00 Proposed Units: 5

Permit 201111148788

Status: ISSUED Status Date: 11/14/2011

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

Originally Filed: 11/14/2011 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$1,200.00Proposed Units:5

Permit 201106218559

Status: ISSUED Status Date: 6/21/2011

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

Originally Filed: 6/21/2011 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$10,000.00Proposed Units:5

Permit 201006164682 🗗

Status: COMPLETE Status Date: 7/26/2010

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

#3

Originally Filed: 6/16/2010 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$2,000.00Proposed Units:5

Permit 201006023715

Status: COMPLETE Status Date: 6/14/2010

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

Originally Filed: 6/2/2010 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5
Construction Cost: \$500.00 Proposed Units: 5

Permit 201005172590 🗗

Status: COMPLETE Status Date: 7/7/2010

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

Originally Filed: 5/17/2010 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$700.00Proposed Units:5

Permit 201002086109 2

Status: COMPLETE Status Date: 7/7/2010

Unit #4: to complete work & obtain final inspection for work approved under pa#200701302889 per john

hinchon c.E. Comply with nov #201031529.

Originally Filed: 2/8/2010 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$5,000.00Proposed Units:5

Permit 200712100023 🗗

Status: CANCELLED Status Date: 6/16/2010

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

Originally Filed: 12/10/2007 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$1.00Proposed Units:5

Permit 200709061957 🗗

Status: CANCELLED Status Date: 6/8/2010

Build & construct11 ft. 132' high , one hour parapet in existing lightwell on roof (11 ft. Tall)

Originally Filed: 9/6/2007 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5
Construction Cost: \$1,000.00 Proposed Units: 5

Permit 200709061954 2

Status: CANCELLED Status Date: 6/8/2010

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

Originally Filed: 9/6/2007 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5

Construction Cost: \$1,000.00 Proposed Units: 5

Permit 200701302889 🗗

Status: EXPIRED Status Date: 10/4/2007

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

Originally Filed: 1/30/2007 Address: 2455 JACKSON ST

Existing Use: APARTMENTS **Parcel:** 0606/024

Proposed Use: APARTMENTS Existing Units: 5
Construction Cost: \$5,000.00 Proposed Units: 5

Permit 200612079370

Status: EXPIRED Status Date: 10/4/2007

To comply with complaint# 200684038. Complete work in following application. Pa# 2004/12/06/0742 & pa#

2006/06/21/4663. Repair in apt# 1, 2, 3, 4 & 5.

Originally Filed: 12/7/2006 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$5,650.00Proposed Units:5

Permit 200606214663 2

Status: CANCELLED Status Date: 6/8/2010

Replace sheet rock, floor plywood, window in upper unit, fix damage over extend periof of time.

Originally Filed: 6/21/2006 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$4,350.00Proposed Units:5

Permit 200502034695 2

Status: COMPLETE Status Date: 5/6/2005

Underpinning for 12' section of foundation

Originally Filed: 2/3/2005 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 4
Construction Cost: \$2,000.00 Proposed Units: 4

Permit 200412060742 2

Status: EXPIRED Status Date: 1/18/2006

Repair/replace/install roof,window trim,wall shingles,2 rafters,6 studs/flooring,sheetrock,sheet

Originally Filed: 12/6/2004 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5
Construction Cost: \$700.00 Proposed Units: 5

Permit 200211121171

Status: CANCELLED Status Date: 6/8/2010

Replace kitchen & bathroom cabinets apt#3 repair holes in sheetrock walls ceiling apt#1-5,caulk & fl

Originally Filed: 11/12/2002 Address: 2455 JACKSON ST

Existing Use: APARTMENTS **Parcel:** 0606/024

Proposed Use: APARTMENTS Existing Units: 5

Construction Cost: \$3,000.00 Proposed Units: 5

Permit 200203222167 🖸

Status: CANCELLED Status Date: 6/8/2010

Replace bathroom & kitchen cabs sink bathroom fixtures repair holes in sheetrock walls/ceilings 1,3,

Originally Filed: 3/22/2002 3:45:41 PM Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$12,500.00Proposed Units:5

Permit 9100392 2

Status: COMPLETE Status Date: 4/8/1991

Open kitchen ceiling remove excess tar, repatch ceiling

Originally Filed: 1/9/1991 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$500.00Proposed Units:5

Permit 9014192 🗹

Status: CANCELLED Status Date: 4/23/1991

Compelte work under permit #597449 app #8809278

Originally Filed: 7/19/1990 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$1.00Proposed Units:5

Permit 9012970 2

Status: COMPLETE Status Date: 1/30/1991

Demo & excavate (e) brick foundation replace w/concrete

Originally Filed: 7/3/1990 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 3

Construction Cost: \$2,500.00 Proposed Units: 3

Permit 8820464 2

Status: EXPIRED Status Date: 4/28/1989

Augmentation to #8809278, replace several rotten beams

Originally Filed: 12/28/1988 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$750.00Proposed Units:5

Permit 8809278 2

Status: EXPIRED Status Date: 4/28/1989

Remodel exist double bathrms, remove dryrotted non-struc'l

Originally Filed: 7/12/1988 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5
Construction Cost: \$12,500.00 Proposed Units: 5

Permit 8409949 2

Status: EXPIRED Status Date: 8/16/1985

Replace & resurface exiisting rear deck slats & rails

Originally Filed: 9/14/1984 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 0

Construction Cost: \$100.00 Proposed Units: 3

Permit 8309323 🗹

Status: COMPLETE Status Date: 6/11/1984

Replace brick footings with reinforced concrete

Originally Filed: 9/20/1983 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use:APARTMENTSExisting Units:5Construction Cost:\$3,050.00Proposed Units:5

Permit 8200851 🗗

Status: COMPLETE Status Date: 3/4/1983

Originally Filed: 2/4/1982 Address: 2455 JACKSON ST

Existing Use: Parcel: 0606/024

Proposed Use: Existing Units: 0

Construction Cost: \$99.00 Proposed Units: 0

Permit 0452652 2

Status: COMPLETE Status Date: 3/4/1983

Legalize existing ground floor

Originally Filed: 10/20/1975 Address: 2455 JACKSON ST

Existing Use: APARTMENTS Parcel: 0606/024

Proposed Use: APARTMENTS Existing Units: 5
Construction Cost: \$10,000.00 Proposed Units: 5

Additional Permits

Additional Permits ((electrical, plumbing, etc.) lodged with the Department of Building Inspections.

PUBLIC COMMENT

From:

Sent: Friday, April 16, 2021 7:09 PM

To: BoardofAppeals (PAB) < boardofappeals@sfgov.org>

Cc:

Subject: Appeal No. 21010 2455 Jackson Street Letter of Opposition

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

Dear Board of Appeal Members —

We are the neighbors directly to the east of 2455 Jackson Street, the building code violations of which are the subject of the Hearing on April 21, 2021.

Our HOA received the hearing notification by mail and we were invited to submit our feedback regarding the issues at hand. We would like to supply you with some historical evidence of Mr. Korman's continued code violations.

Below you will find an email and photos sent on behalf of the HOA in December of 2019 that detail one of the challenges of living next to the ongoing construction at 2455 Jackson Street. Not outlined in the letter are the loose tarps and shower curtains at the side of the building which are a constant source of noise, especially during rainy weather. These tarps also shed water directly on our property to the extent that we have resorted to employing sandbags to redirect the flow of rainwater.

As neighbors, we are entitled to the quiet enjoyment of our property, but far more significantly, we believe the building is a major fire, seismic and personal safety risk in its current state, and has been for some time. It is deteriorating rapidly and needs urgent, efficient and timely remediation. The predominant construction activities have ceased, thankfully, but the issues remain in place.

We would also like to draw your attention to the rear portion of Mr. Korman's lot, which has been used for the storage of construction materials, old and disused equipment, plumbing fixtures, garbage cans, etc. This is a continued and long-standing activity (since at least 2006) that poses a health risk (some of us have observed rodents there) as well as an unsightly mess to all Mr. Korman's neighbors with windows facing onto his yard. As part of the remediation of the property, we are hopeful that the rear yard can be cleared of all these materials. (Photos attached.)

It is our opinion, based on the decades-long series of Code Violations regarding this property, that close, regular supervision and scrutiny by city officials is absolutely necessary for any construction activity allowed to take place going forward.

Thank you for your attention to our concerns.

2447-2449-2451 Jackson Street HOA

(Please remove our names and email addresses if providing this information to the public.)



Date: December 4, 2019 at 7:02:34 PM PST

(Letter follows)

Dear ,

We are writing to let you know that on November 26, during the first rainstorm of the season, slightly before 6:30 pm PST, a large plywood panel fell into our 2451 Jackson Street primary access walkway between our and Mr. Bob Korman's property located at 2455 Jackson Street (see three photos attached showing the wood panel after the fall). It originated from Mr. Korman's property and may have been used to temporarily repair or cover his roof or other construction. There seems to be no discernible damage to our building, however, the plywood landed with such considerable force that it became embedded in between the bricks of our 2451 primary access walkway before breaking off. It could have created utmost harm to anyone present in the walkway during the fall, and had it hit a window directly across, it could have seriously injured anyone in the rooms, including a sleeping baby.

As we have informed you, over the years we have been enduring Mr. Korman's nearly continuous construction activities. Please refer to our emails on the subject, dating from between August and December

2018 and again from between August 2019 to the present. DBI has issued several notices of violation on Mr. Korman's illegal construction activities (Complaints Numbers 201995441 and 201888993) and has subsequently referred his case(s) to Code Enforcement and to Directors' Hearings.

While we appreciate the fact that DBI has followed up on these complaints to an extent, it is clear that Mr. Korman's work remains not only a significant disturbance to us as his neighbors (including but not limited to noise resulting from loosely fixed tarps to cover construction, water pouring from Mr. Korman's roof construction directly into our walkway during rain, etc.) but continues to represent also an actual threat to our health and safety. The risk of construction debris falling onto our walkway was something we had specifically outlined in our previous emails to you, along with fire risk and incomplete seismic upgrades. This recent incident was not the first time debris has landed there, but it is by far the most severe.

Please note that complaints lodged with DBI concerning Mr. Korman's activities at 2455 Jackson Street date back to 1994, according to the DBI database. We do not understand why, for 25 years, DBI seems to have been unable to cease or remediate the results of his activities. We find that unacceptable.

We hereby request that DBI direct Mr. Korman (1) to immediately begin removing all construction falling within the scope of the two most recent complaints, (2) to ensure this removal involves at least a semi-permanent fix of the construction site, (3) to cause this removal to be performed and accomplished in a professional manner that will not affect our property or health in any direct or indirect means (e.g., as a result of falling objects, water pouring into our property, unacceptable noise level at night, fire hazards, etc.), and (4) to complete this removal within a reasonable, prescribed time frame and without delay.

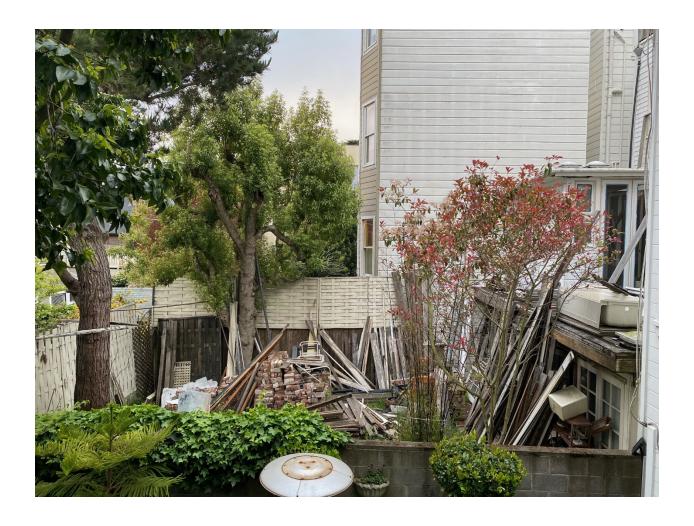
Further, we understand that Mr. Korman recently submitted a drawing set to DBI. We would like to know what these drawings entail, what stage of review they are under, and we wish to be notified of any action regarding the approvals and neighborhood notifications.

Because DBI's mission is "[t]o serve the City and County of San Francisco and the general public by ensuring that life and property within the City and County are safeguarded, and to provide a public forum for community involvement in that process," we expect DBI to promptly take enforceable and verifiable action including frequent inspections, fines or possibly property liens. Mr. Korman's property and activities at 2455 Jackson Street continue to pose a real threat to our safety and property at 2447- 2451 Jackson Street, in direct contravention to DBI's mission.

Please note that we are currently investigating what courses of action may exist via other city or county agencies and would therefore appreciate knowing how such extreme cases are typically handled or referred by DBI.

\ \ \ \ \ \ \ \ \ \											•
We appreciate	VAHR BAIR	and Iool	much	torward	tΛ	hearina	trom '	VALLAT	VALIR	ACITIEST	CONVENIENCE
TTC application	, our many	onia icci		ioi waia		ncai ing	110111	, OU GI	, 001	Carnes	CONTROLLEC

Sincerely,









From:

To:

BoardofAppeals (PAB)

Subject: REVISED LETTER. PLEASE USE THIS ONE! Appeal No. 21010 2455 Jackson Street

Date: Tuesday, April 20, 2021 2:39:42 PM

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

Hello Again-

Could you please use this letter instead of the one I emailed yesterday? I'm having doubts about a couple of sentences in the original one so it is important that you substitute this one.

Will you please let me know that you received this, please?

Thank you!

```
> On Apr 20, 2021
> 
> **PLEASE REDACT MY NAME AND EMAIL ADDRESS**
> 
> Hello —
>
```

> I am writing about the hearing on this appeal which has been moved to May 5.

> I am concerned about my personal safety concerning the person who owns the property, Bob Korman. Therefore I'd appreciate your discretion as to make this information public.

> Together with other neighbors beleaguered by his building activities, I have opposed his illegal construction. However, he views me as the person leading the opposition, which is a mistaken assumption.

> Korman has made no secret about his antipathy toward me personally over the years. Recently, he has made a couple of statements to a neighbor that I construe as threatening, saying if it weren't for me, he wouldn't have to spend money on lawyers to obtain a permit.

> I am deeply concerned about my safety around Korman. Even his outward demeanor is threatening. I worry what he might do to me in retaliation for what he perceives as my opposition leadership.

> I do have genuine sympathy for mentally ill people, especially those who have been incarcerated, but these two factors as they apply to Korman only increase my anxiety about what he might do.

> I hope that whatever leeway the Board decides to grant him, the police be notified of my concerns.

> Thank you for your understanding.

>

>