

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of

Appeal No. 14-105

MICHAEL KLOTSMAN,)
Appellant(s))
vs.)
DEPARTMENT OF BUILDING INSPECTION,)
Respondent)

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on June 06, 2014, 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 May 30, 2014, to Gary Yeung, Plumbing Permit (remove stove and cap off gas pipe) at 2047 Polk Street.

APPLICATION NO. PP2014/05/30/128

FOR HEARING ON July 23, 2014

Address of Appellant(s):

Address of Other Parties:

Michael Klotsman, Appellant 2047 Polk Street Apt. A San Francisco, CA 94109	Gary Yeung, Permit Holder c/o Stanley Riddell, Attorney for Permit Holder 201 California Street, 17th Floor San Francisco, CA 94111
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Date Filed:

BOARD OF APPEALS

JUN 06 2014
APPEAL # 14-105

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT OF APPEAL

I / We, **Michael Klotsman**, hereby appeal the following departmental action: **ISSUANCE of Plumbing Permit PP2014/05/30/128** by the **Department of Building Inspection** which was issued or became effective on: **May 30, 2014**, to: **Gary Yeung**, for the property located at: **2047 Polk 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: **July 03, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

Respondent's and Other Parties' Briefs are due on or before: **July 17, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

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

Hearing Date: **Wednesday, July 23, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

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

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

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

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

The reasons for this appeal are as follows:

Planning Department believes this permit was issued in error.

Appellant or Agent (Circle One):

Signature:

Print Name: MICHAEL KLOTSMAN

Permits, Complaints and Boiler PTO Inquiry

Plumbing Permit Details Report

Report Date: 6/6/2014 4:18:44 PM ✓

Application Number: PP20140530128

Address(es): 0574 / 002 : 2047 POLK ST

Description: REMOVE STOVE AND CAP OFF GAS PIPE.

Stage:

Action Date	Stage	Comments
5/30/2014	ISSUED	
5/30/2014	FILED	

BOARD OF APPEALS

JUN 06 2014

APPEAL # 14-105

Contractor Details:

License Number: 533324

Name: CUONG VY TANG

Company Name: C T CONSTRUCTION & PLUMB

Address: 1847 48TH AV SAN FRANCISCO CA, 94122

Phone: 4152037178

Appointment Details:

Appointment Date | Appointment AM/PM | Appointment Code | Appointment Type | Description | Time Slots

Inspection Details:

Activity Date | Inspector | Inspection Description | Inspection Status

For information, or to schedule an inspection, call 558-6570 between 8:30 am and 3:00 pm.

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

Technical Support for Online Services

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

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BOARD OF APPEALS
JUL 03 2014
APPEAL # 14-105

6 BOARD OF APPEALS

7 CITY AND COUNTY OF SAN FRANCISCO

8 MICHAEL KLOTSMAN	)	Appeal No. 14-105
9 Appellant,	)	APPELLANT'S BRIEF
10 vs.	)	OPPOSING THE PERMIT
11 CITY AND COUNTY OF SAN FRANCISCO	)	Subject Property: 2047 Polk Street
12 DEPARTMENT OF BUILDING INSPECTION	)	Permit Type: Plumbing Permit
13 Respondent	)	Permit No.: PP2014/05/30/128
	)	Date: July 23, 2014
	)	Time: 5:00 P.M.
	)	Location: One Dr. Carlton B. Goodlett Place
	)	Room: 416

15 I. INTRODUCTION

16 On May 22, 2014, Permit Holder sent Mr. Klotsman a Notice of Application for Permit to
17 Demolish Appellant, Michael Klotsman's unit at 2047A Polk Street. Mr. Klotsman applied for and
18 received Block Book Notification for the subject premises parcel on May 27, 2014. With the Block
19 Book Notification, Mr. Klotsman intended to apply for Discretionary Review from the Planning
20 Department for any demolition permit subsequently issued to the Permit Holder.

21 Instead of applying for a demolition building permit, Permit Holder applied for the plumbing
22 permit at issue to effect demolition of Mr. Klotsman's unit, by capping off the gas line to the stove and
23 removing the stove from use. Because the Planning Department is not charged with reviewing
24 plumbing permits, Mr. Klotsman was unable to seek Discretionary Review, which would have
25 considered the effects of the removal of a rent-controlled, affordable and habitable unit from the
26 housing market.

27 Mr. Klotsman has now been served with a Notice of Termination of Tenancy of the premises
28 based upon the Permit Holder's intent to remove the unit from housing use pursuant to Rent Ordinance

1 §37.9(a)(10).

2 Revocation of the permit is appropriate here because: 1) The permit belies its intended purpose
3 to remove the unit from housing use; 2) The *plumbing* permit, as issued and intended for housing
4 removal, is counter to San Francisco Building and Planning codes which require *building* permits for
5 housing removal; 3) The permit, as issued, cannot be adequately reviewed for its effect on the
6 community; and 4) Mr. Klotsman will incur substantial costs defending an unlawful detainer that could
7 be avoided by allowing him to pursue his administrative remedy, which would have been available had
8 the permit been accurately couched as a building permit seeking to remove the unit.

9 **II. STATEMENT OF FACTS**

10 The subject property is located at 2047-49 Polk Street. The subject property was built in 1909
11 consisting of two residential flats.

12 Mr. Klotsman's unit is a large remodeled one-bedroom apartment. (See photos attached as
13 Exhibit A.) There are no outstanding DBI notices of violation on the unit. The unit is habitable but for
14 a nonconforming kitchen.

15 Appellant leased the premises from Permit Holder at 2047A Polk Street on August 10, 2009.
16 (See pages 1 and 9 of the lease attached as Exhibit B.) It should be noted on page 9 of the agreement
17 the Landlord/Permit Holder states: "The 2047A Polk Street unit has been completely renovated and
18 restored. The tenant agreed that the unit as "perfect" condition. Appellant pays rent of \$1,650.00 per
19 month."

20 In October 2013, Mr. Klotsman filed a petition at the San Francisco Rent Board alleging a
21 decrease in services for lack of heat in the apartment. On February 18, 2014, in a Rent Board
22 mediation, Mr. Klotsman settled his claims with the Permit Holder for lack of heat. During the
23 mediation, the Permit Holder also settled an unlawful rent increase and over-charging Mr. Klotsman's
24 security deposit.

25 On May 22, 2014, Permit Holder sent Mr. Klotsman a Notice of Application for Permit to
26 Demolish Residential Dwelling, in accordance with California Civil Code §1940.6, dated May 22,
27 2014. (See attached, Exhibit C.)

28 The notice also informed Mr. Klotsman: "NOTICE IS HEREBY GIVEN that the owners of the

1 premises known as 2047A Polk Street, in San Francisco, California, will apply to the San Francisco
2 Department of Building Inspection for a permit to demolish or otherwise permanently remove the
3 premises from housing use. (Exhibit C.)

4 On May 27, 2014, Mr. Klotsman applied for Block Book Notification. (See attached, Exhibit C,
5 page 2.)

6 On June 5, 2014, Mr. Klotsman called the Planning Department concerned that he had not
7 heard from them regarding the imminent filing of demolition permit by the landlord. They checked the
8 record and found that the only recent permit filed for the unit was a plumbing permit.

9 The next day, June 6, 2014 Mr. Klotsman visited the Planning Department to discuss the
10 legality of the permit, and to determine if a discretionary review could be initiated given that a BBN
11 was in place. He was informed that the plumbing permit, as issued, for the intent of removing a
12 dwelling unit from housing did not meet Planning Department Dwelling Unit Removal requirements
13 and would indeed need to undergo Discretionary Review.

14 Although the Planning Department recognized that the plumbing permit was being used as a
15 basis for removing a dwelling unit from housing, they had no authority nor operational jurisdiction
16 over over-the-counter plumbing permits. Mr. Klotsman faced a similar challenge in speaking with the
17 Plumbing Department; he was informed they had no authority to suspend the permit because it was for
18 a stove removal (not a dwelling unit removal).

19 Indeed, Permit Holder had only applied for the plumbing permit at issue in this case, ostensibly
20 to effect a demolition of the subject premises. (Exhibit E.) The description of work covered by the
21 permit states, "Remove stove and cap off gas pipe." There is nothing on the face of the permit that
22 indicates the Permit Holder's intent to demolish Mr. Klotsman's unit.

23 On June 4, 2014 Permit Holder served Mr. Klotsman a Notice of Termination of Tenancy. (See
24 attached Exhibit F.)

25 **III. THE BOARD OF APPEALS HAS BROAD DISCRETION IN GRANTING AND**
26 **DENYING PERMITS.**

27 San Francisco administrative authorities exercise discretion in the review of permit applications
28 pursuant to San Francisco Business and Tax Regulations Code, article I, section 26, subdivision (b),

1 which provides: “[I]n the granting or denying of any permit [...] the granting [...] power may take into
2 consideration the effect of the proposed business or calling upon surrounding property and upon its
3 residents, and inhabitants thereof; and in granting or denying said permit [...] may exercise its sound
4 discretion as to whether said permit should be granted [...] denied or revoked.”

5 “Section 26 [...] vest[s] administrative authorities with very broad discretion to decide whether
6 and on what conditions an applicant will be granted a permit. And if the application is for a building
7 permit, the fact that the applicant’s project complies with zoning ordinance and building codes does not
8 restrict the scope of that discretion.” *Martin v. City and County of San Francisco* (2005), 135 Cal.
9 App.4th 392, 400. “[C]ompliance with the zoning laws and building codes did not entitle [the
10 applicant] to a building permit as a matter of course.” *Guinnane v. San Francisco Planning*
11 *Department* (1989), 209 Cal.App.3d 732, 736.

12 “[I]t is well established that section 26 administrative discretion is not cabined by specific
13 criteria that may be set forth in city codes or ordinances. Instead, that discretion is informed by public
14 interest, encompassing anything impacting the public health, safety or general welfare.” *Martin*, supra,
15 135 Cal.App.4th at p. 407.

16 “[B]oth the planning commission (under § 26) and the board of permit appeals (under § 3.651
17 of the city charter) are authorized to exercise independent discretionary review of a building permit
18 application, the final authority being reposed in the board. Further ... such review is not confined to a
19 determination whether the applicant has complied with the city’s zoning ordinances and building
20 codes.” *Guinnane*, supra, 209 Cal.App.3d at p. 740, fn. added. “The board generally enjoys “complete
21 power to hear and determine the entire controversy, [is] free to draw its own conclusions from the
22 conflicting evidence before it and, in the exercise of its independent judgment in the matter, affirm or
23 overrule....” (Citations.) However, that power must be exercised within the bounds of all applicable
24 city charter, ordinance and code sections, and any action on its part that exceeds these bounds is void.”
25 *City and County of San Francisco v. Board of Permit Appeals* (1989) 207 Cal.App.3d 1099, 1104-
26 1105.

27 Clearly the Board of Appeals has the discretion to review the permit within the parameters of
28 the project itself, i.e. whether the permit actually accomplishes what it purports to accomplish. The

1 Board also has broad discretion to consider the impact of the plumbing permit on planning priorities,
2 and housing/tenancy issues, given its true purpose to effect a demolition of an affordable rent
3 controlled unit.

4 **IV. THE PLUMBING PERMIT AT ISSUE CANNOT SUPPORT A DEMOLITION**
5 **OR REMOVAL OF THE UNIT**

6 Permit Holder will argue that the plumbing permit to remove the stove and cap off the gas line
7 constitutes a de facto or implicit removal of the unit.

8 San Francisco Building Code §106A.1 explicitly states otherwise: “Except as specified in
9 Section 106A.2, no building or structure regulated by this code shall be erected, constructed, enlarged,
10 altered, repaired, moved, improved, *removed*, converted or *demolished* unless a separate permit for
11 each building or structure has first been obtained from the Building Official.”

12 San Francisco Building Code §106A.2 contains a long list of exceptions not requiring a
13 building permit, but removal or demolition of a housing unit is not one of them.

14 In other words, a building permit is required to demolish a unit or remove it from housing use.
15 In fact, removing a nonconforming kitchen is a common method of removing a unit from housing use,
16 however a building permit to demolish is required to initiate the process.

17 Additionally Planning Code §175(b) states, “No such application, permit or license shall be
18 approved or issued by any City department for the construction, reconstruction, enlargement,
19 alteration, relocation or occupancy of any structure *if the construction or other activities that would be*
20 *authorized by the requested permit or license would not conform in all respects to this Code*, or if the
21 structure or any feature thereof is designed, constructed, arranged, maintained or *intended to be used*
22 *for a purpose or in a manner contrary to the provisions of this Code.*” (Emphasis added.)

23 In this case the plumbing permit would not have been approved had the Permit Holder been
24 forthcoming about real reason he sought the permit.

25 Civil Code §1940.6(a)(2) states in part: “The owner of a residential dwelling unit or the owner's
26 agent who applies to any public agency for a permit to demolish that residential dwelling unit shall
27 give written notice of that fact to [a] current tenant [...] prior to applying to the public agency for the
28 permit to demolish that residential dwelling unit.”

1 Permit Holder acknowledged the necessity of a demolition permit by serving the required
2 notice under Civil Code §1940.6(a)(2). Permit Holder also seeks to evict Mr. Klotsman under Rent
3 Ordinance 37.9(a)(10) which specifically provides, “The landlord seeks to recover possession in good
4 faith in order to demolish or to otherwise permanently remove the rental unit from housing use and has
5 obtained all the necessary permits on or before the date upon which notice to vacate is given [...]

6 San Francisco Planning Code section 317(b)(10) states: “ ‘Removal’ shall mean, with reference
7 to a Residential Unit, its Conversion, Demolition, or Merger.

8 The plumbing permit, on its face, does not mention a demolition or removal at all. (Exhibit E.)
9 In this case, Permit Holder does not seek to fix the plumbing or, for example, provide an electric stove
10 for the unit. His true intent is to use the permit to demolish/remove the unit from housing use, as
11 further confirmed by Permit Holder’s service of the Notice of Termination of Tenancy. (Exhibit F.)

12 The plumbing permit should be revoked because simply because it cannot legally support or
13 justify a demolition. Permit Holder, given his intent, was required to file a building permit.

14 **V. DISCRETIONARY REVIEW IS APPROPRIATE IN THIS CASE**

15 If the permit is revoked and Permit Holder seeks to renew his effort to demolish or remove the
16 unit by application for a demolition permit, Mr. Klotsman, by virtue of his Block Book Notification
17 (Exhibit C.) would be given ten to days to apply for Planning Department Discretionary Review.

18 Mr. Klotsman will seek Discretionary Review for the primary purpose of preserving his rent-
19 controlled housing. According to the Mayor’s Executive Directive 13-01, December 18, 2013, Task (2)
20 allowing discretionary review for loss of housing units: “The Planning Commission could then
21 consider the reasons for the reduction in housing units, with *special attention paid to preserving*
22 *existing rental stock.*” (Emphasis added.)

23 **A. Exceptional and extraordinary circumstances justify Discretionary Review of a** 24 **demolition permit.**

25 In this case the exceptional and extraordinary circumstances have been created by the
26 rapid loss of affordable housing and dramatic rent increases in San Francisco during the last few years
27 as recognized by the San Francisco Planning Department Executive Summary, March 13, 2014,
28 recommending the amendment to Planning Code section 207.3 providing for authorization of dwelling

1 units constructed without a building permit:

2 “San Francisco is experiencing a boom in development with over 6,000 units currently
3 under construction and another 4,700 units permitted to start construction. Over 3,500
4 new units were added to the City’s housing stock in the last two years, a steep increase
5 from the 270 net new units built in 2011. This recent boom may well surpass the ten-
6 year average of 2,245 net units built between 2001 and 2010. Rental prices in San
7 Francisco rose almost 110%, over the last year. A recent report published by Trulia
8 indicates that the median asking rents in recent listings varied by neighborhoods
9 ranging up to \$3,300 per bedroom. Parallel with this steep rise in rents, eviction rates
10 have soared. The Office of Budget and Legislative Analyst published a report in
11 October 2013, which indicated a 38.2% increase in all of evictions while Ellis Act
12 evictions types increased by a dramatic 168%.

13 In his State of the City speech in early January 2014, Mayor Lee acknowledged a
14 housing shortage and established a seven-point plan for housing. The City has been
15 taking on many approaches to preserve existing affordable housing stock while developing
16 more affordable housing. San Francisco’s current housing crisis necessitates the City
17 to diligently preserve housing affordable to low and middle income households.

18 Unauthorized units, more commonly known as illegal units, constitute an anecdotally
19 large portion of San Francisco’s housing stock. While the City does not maintain any
20 database on these units, anecdotal references estimate a range between 30,000 to 50,000
21 of such units in San Francisco. Having been built without permits, many of these units
22 may not comply with city code requirements.

23 Historically, once the City became aware of existence of such units, the life and safety
24 hazard concerns required the owners to remove and demolish such units. Between 2000
25 and 2011, about 250 of such units have been removed. In response to the existing housing
26 crisis and the need for preserving our existing housing stock, the City has recently
27 changed its approach towards these units.

28 In his Executive Directive to all Departments, published on December 18, 2013, the
Mayor called for establishing a discretionary review to ensure that property owners
have made every effort to maintain a housing unit before removal of the unit. The
proposed Ordinance would provide a new avenue for maintaining additional
unauthorized units through the provisions offered under the State law.”

Accordingly, the removal of Mr. Klotsman’s unit, a habitable, affordable unit, as shown the
attached photographs (Exhibit A.) is an action diametrically opposed to recent policies enacted to
mitigate the extreme and extraordinary circumstances of the housing crisis. Discretionary Review is
more than justified in this case.

**B. The permit to demolish will conflict with the City’s General Plan and the Planning
Code’s Priority Policies.**

Planning Code section 101.1(b) articulates the priority policies to be considered in granting this
request for Discretionary Review and they will be discussed in turn:

Planning Code section 101.1(b)(2): “That existing housing and neighborhood character be

1 conserved and protected in order to preserve the cultural and economic diversity of our
2 neighborhoods.”

3 The permit to demolish will conflict with this priority because it removes affordable, rent-
4 controlled housing stock from the neighborhood and, at the very least, will destroy the economic
5 diversity of the neighborhood.

6 Planning Code section 101.1(b)(3): “That the City’s supply of affordable housing be preserved
7 and enhanced.”

8 Mr. Klotsman pays \$1,650.00 per month and has lived in the unit for five years. (Exhibit B.)
9 This affordable unit will be permanently lost if it is removed.

10 San Francisco Planning Code section 317(b)(10) states: “ ‘Removal’ shall mean, with reference
11 to a Residential Unit, its Conversion, Demolition, or Merger.

12 The building permit application would likely demonstrate the property owner’s intent to
13 demolish the unit.

14 The removal/demolition of Mr. Klotsman’s unit as requested in the permit application would
15 not withstand Planning Commission scrutiny under the following subparts of Planning Code section
16 317(d)(3)(c):

17 When considering this demolition permit the Planning Commission is charged to consider:

18 “(i) whether the property is free of a history of serious, continuing Code violations;”

19 There are no active notices of violation on the unit.

20 “(ii) whether the housing has been maintained in a decent, safe, and sanitary condition;”

21 As demonstrated by the photographs (Exhibit A) the unit is clearly maintained in a decent, safe
22 and sanitary manner.

23 “(v) whether the project converts rental housing to other forms of tenure or occupancy;”

24 If a permit seeks to remove the unit, the tenure would certainly change, it would remain to be
25 seen how the property owner intended to use the unit and should be the subject of further inquiry.

26 “(vi) whether the project removes rental units subject to the Rent Stabilization and Arbitration
27 Ordinance or affordable housing;”

28 A demolition permit would remove an affordable rent-controlled unit.

1 “(vii) whether the project conserves existing housing to preserve cultural and economic
2 neighborhood diversity;

3 As stated above, removing the unit will not conserve existing housing to preserve cultural and
4 economic neighborhood diversity;

5 “(viii) whether the project conserves neighborhood character to preserve neighborhood
6 cultural and economic diversity;”

7 As stated above, removal of the unit will not preserve economic diversity.

8 “(ix) whether the project protects the relative affordability of existing housing;”

9 As stated above, project will not protect the relative affordability of existing housing, but will
10 instead remove an affordable unit.

11 In this case removal of Mr. Klotsman’s unit is diametrically opposed to all of the Policy Priorities
12 designed to preserve rent-controlled, affordable housing.

13 **C. Mr. Klotsman will be prejudiced if his appeal is denied.**

14 As stated earlier, Mr. Klotsman will incur substantial costs defending an unlawful detainer that
15 could be avoided by allowing him to pursue his administrative remedy, which would have been
16 available had the permit been accurately couched as a building permit seeking to remove the unit.
17 While he may be able to prevail in a demurrer to an unlawful detainer, the cost of that motion alone
18 could be as much \$5,000.00. If he fails at demurrer, Mr. Klotsman might have incur further cost of
19 discovery, various motions and eventually trial, which could run \$50,000.00 or more.

20 **D. Revocation of the plumbing permit will not prejudice the Permit Holder.**

21 Revocation of the plumbing permit is justified because the permit, in and of itself, cannot
22 legally support a removal of the unit. The Permit Holder continues to collect rent and may simply
23 apply for the appropriate building permit should he wish to remove Mr. Klotsman’s dwelling unit from
24 the housing market.

25 **E. Revocation of a subsequent building permit would not prejudice the Permit Holder.**

26 “[C]ompliance with the zoning laws and building codes did not entitle [the applicant] to a
27 building permit as a matter of course.” *Guinnane v. San Francisco Planning Department*, supra.

28 Permit Holder may argue that he is not required to take steps to legalize the unit according to

1 new procedures enumerated Planning Code section 207.3. That is true, but any potential damages
2 articulated by Permit Holder would be highly speculative, given San Francisco's new emphasis on the
3 priority to maintain affordable rent controlled units. Certainly, the benefits of legalization far outweigh
4 the costs.

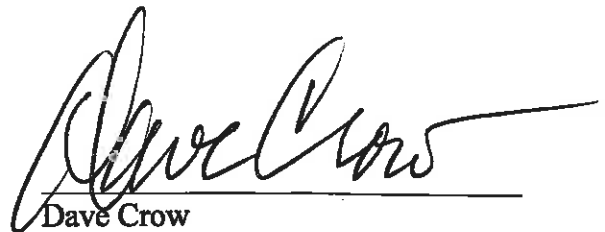
5 If Permit Holder avails himself of the procedure outlined in Planning Code section 207.3 to
6 legalize Mr. Klotsman's unit, he will create a continued legal, income stream for the property. If
7 Permit Holder leaves the unit vacant, he loses income. If he desires to expand the commercial space,
8 that action would fly in the face of San Francisco's Master Plan.

9 **III. CONCLUSION**

10 In this case the plumbing permit cannot support a demolition or removal of the unit. Had the
11 permit been properly couched as a building permit, Mr. Klotsman could have availed himself of
12 Planning Department Discretionary Review. Discretionary Review would likely be granted given
13 emphasized priority to retain affordable housing stock.

14 For the reasons stated above, Appellant respectfully requests revocation of Permit No.
15 PP2014/05/30/128.

16
17 Dated: July 2, 2014

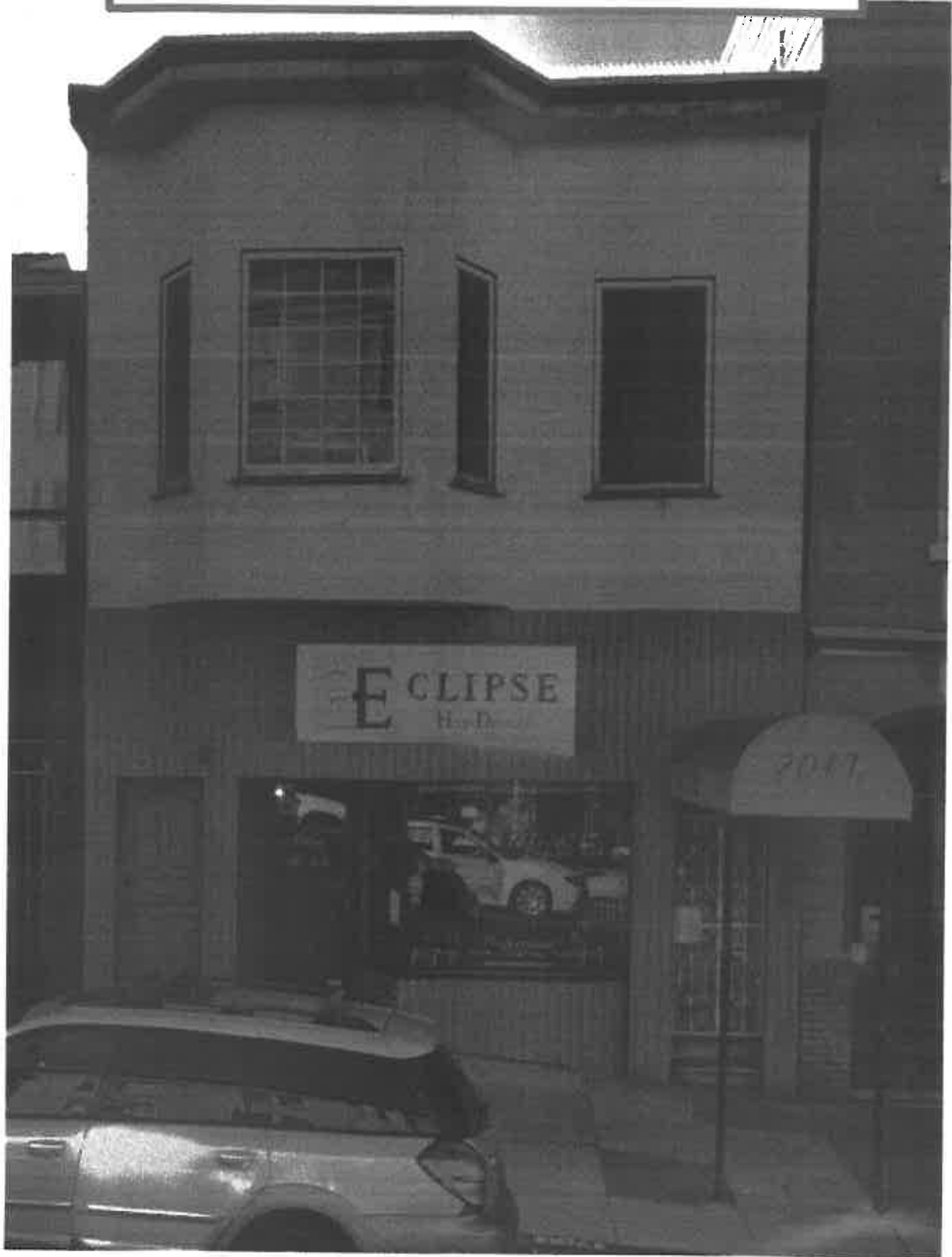


Dave Crow
Attorney for Appellant,
Michael Klotsman

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EXHIBIT A

2047/49 Polk St











**SAN FRANCISCO APARTMENT ASSOCIATION
RESIDENTIAL TENANCY AGREEMENT**

initial payment
Security deposit \$2700
First month rent prorated
From Aug 10 - Aug 31 09 Total
\$1170.96 + 2700 = 3870

1. **INTRODUCTION:** 2047 Park Street, San Francisco, CA 94107
("Owner") rents to _____ ("Tenant")
and Tenant agrees to rent 2047 Park Street, San Francisco, CA 94107

California, (the "Premises"). No other portion of the building (the "Building"), where the Premises is located, is included for lease unless expressly provided for in this Residential Tenancy Agreement (the "Agreement"). The Premises is provided as Unfurnished or Furnished (see attached Furniture Inventory). The appliances provided at inception of the tenancy are described as: Refrigerator, Dishwasher, Stove, 101-101-101

2. **TERM:** The term of this rental shall begin on Aug 10, 2009 and end on Aug 31, 2010, and thereafter shall be month-to-month on the same terms and conditions as listed herein, save any changes lawfully made until terminated.

3. **PHYSICAL POSSESSION:** If Owner is unable to deliver possession of the Premises at the commencement of the term, Owner shall not be liable for any damage caused thereby, nor shall this Agreement be void or voidable, but Tenant shall not be liable for any rent until possession is delivered.

4. **RENT:** The initial monthly base rent for the Premises shall be US \$ 1650. All rent is due and payable in advance on the first day of each and every month (the "Due Date") without offsets, deductions or credits. All rent shall be paid to _____ or such other person as Owner shall designate in writing. Tenant agrees always to pay rent by personal check, cashier's check, or money order and not use cash unless specifically requested by Owner. Rent shall be paid to Owner at the following address: 2047 Park Street, San Francisco, CA 94107 or at such other place designated by Owner, during normal business hours or as designated by Owner. In the event of roommates, or another form of multiple occupancy, Tenant understands and agrees that rent shall be paid with a single payment and that it is up to Tenant to collect individual checks independently in order to submit a combined, single payment. Nothing in this Paragraph shall be construed as a direction by Owner to make payment in a particular manner; instead, it is a promise by Tenant to pay in the manner set forth herein. Tenant bears the risk of loss or delay of any payment made by mail. Owner must receive mailed rent payments on or before the Due Date. Rent for any partial month shall be pro-rated at the rate of 1/30th of the monthly rent per day. Owner may apply any payment made by Tenant to any obligation of Tenant to Owner notwithstanding any dates or other direction from Tenant that accompanies any such payment. Any attempt by Tenant to allocate a payment in any other way shall be null and void. Owner will accept rent payments only from the actual Tenant(s). No third party checks will be accepted, nor shall Owner be liable to Tenant in any way as a result of refusing any third party check. Should Owner elect to accept a third party check such acceptance shall not be construed as a waiver of this provision. Monthly rental checks received in prior month to which the rent is due will be held un-cashed in a secured location and deposited on the first of the month.

5. **SECURITY DEPOSIT:** Before the commencement of the term, Tenant shall pay a security deposit of US \$ 2700 (the "Security Deposit") for the purposes set forth in Civil Code Section 1950.5. No trust relationship between Owner and Tenant is created because of the Security Deposit and Owner may commingle the Security Deposit with other funds of Owner. Owner may retain such amounts of the Security Deposit as allowed by law including, but not limited to, amounts required to remedy future defaults by the tenant in any obligation under this Agreement to restore, replace, repair or return personal property of reasonable value, exclusive of ordinary wear and tear. Owner shall, within the time period allotted by law, refund any balance after such deductions to Tenant after Tenant has vacated the Premises. Tenant shall not be deemed to have vacated the Premises for purposes of this Paragraph until a) Tenant returns to Owner all keys to the Premises, and b) Tenant has surrendered the Premises to Owner free and empty of all persons claiming any right to possess the Premises. Any balance of the Security Deposit and an accounting of any deductions therefrom will be mailed to Tenant at the Premises unless Tenant provides, in writing to Owner, a mailing address to which the balance, if any, of the Security Deposit and the accounting should be sent. Owner's check or other draft refunding any balance of the Security Deposit may be made in the name of any or all of the original tenants regardless of the party who in fact made the deposit and regardless of the identity of the persons then occupying the Premises. Tenant may not apply the Security Deposit, or any portion thereof, to the last month's rent.

If required by law, Owner shall pay to Tenant simple interest as directed by such law, less deductions, on the amount held as a Security Deposit, provided this tenancy does not terminate before the Security Deposit has been held for one (1) year. Said payment of interest shall be made once a year commencing with the date the Security Deposit has been held for a year. Upon Tenant's surrender of the Premises, if the Security Deposit is insufficient to remedy Tenant's default in rent, to repair damages caused by Tenant, and to clean the Premises, Owner may use from the accrued unpaid interest such amounts as are necessary for those purposes. Accrued unpaid interest or balance thereof, if any, shall be mailed to Tenant at Tenant's last known address in the same manner as any refund of the

49. NON-RENT CONTROLLED JURISDICTIONS: This Agreement may be used for housing that is subject to the provisions of the San Francisco Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance"), or exempt from said law. No provision of this Agreement will in any way create rights for Tenant under the Rent Ordinance for any exempt rental premises, nor create any contractual obligation on the part of Owner to comply with the Rent Ordinance or any mandate of the San Francisco Residential Rent Stabilization and Arbitration Board.

50. ATTORNEY FEES: In any action between Owner and Tenant in which Tenant would otherwise be entitled to recover reasonable attorney fees based on any statute, the parties agree that the right to recover reasonable attorney fees in any such action shall be mutual and reciprocal notwithstanding any statutory provision that would limit recovery of fees to a prevailing tenant only. The parties agree that "reasonable fees" shall mean under \$25,000.

In any action arising out of this Agreement, or the tenancy between Owner and Tenant, the prevailing party shall be entitled to recover reasonable attorney fees and costs.

In any action arising out of this Agreement, or the tenancy between Owner and Tenant, each side shall bear their own attorney fees and costs. (If neither box in Paragraph 50 is checked, this provision shall govern.)

51. NO SHELTER FROM FORFEITURE: Owner and Tenant stipulate that for purposes of Code of Civil Procedure Section 1179, that as a condition for granting relief from forfeiture, Tenant shall pay all back rent, Owner's attorney fees and costs, and any other damages sustained by Owner, as a condition for relief from forfeiture.

52. ENTIRE AGREEMENT: This Agreement consists of the foregoing numbered Paragraphs and attachments identified in this Agreement herein. (Circle to check all that apply)

- Application to Rent
- House Rules
- Move-in/Move-Out Condition Report
- Mold Notification
- Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards
- EPA booklet entitled "Protect Your Family From Lead in Your Home"
- Parking Agreement
- Pet Agreement
- Storage Agreement
- Other:
- Other:
- Other:

Owner and Tenant acknowledge and agree that the drafting of this Agreement was the product of negotiation. This Agreement shall not be construed against either Owner or Tenant on the ground that such person authored or drafted this Agreement. The foregoing constitutes the entire Agreement between the parties and may be modified only in writing signed by all parties except that Owner may change the terms of the tenancy and this Agreement pursuant to Civil Code Section 827. If Owner changes a term of the tenancy pursuant to Section 827, then by remaining in possession of the Premises when the change takes effect, Tenant is deemed by such affirmative act to have consented to the change.

The 2097A Polk Street unit has been completely renovated and restored, the Tenant agreed that the unit is "perfect" condition with S.M.K.

EXHIBIT C

**NOTICE OF APPLICATION FOR PERMIT
TO DEMOLISH RESIDENTIAL DWELLING**

Civil Code §1940.6

TO: Michael Klotsman
All Other Occupants
2047A Polk Street
San Francisco, CA 94109

NOTICE IS HEREBY GIVEN that the owners of the premises known as 2047A Polk Street, in San Francisco, California will apply to the San Francisco Department of Building Inspection for a permit to demolish or otherwise permanently remove the premises from housing use.

NOTICE IS FURTHER GIVEN that the owners expect the earliest possible approximate date on which the demolition or permanent removal to occur will be August 8, 2014, unless you voluntarily vacate the premises sooner.

NOTICE IS FURTHER GIVEN that the owners expect the approximate date on which your tenancy will terminate will be August 1, 2014.

NOTICE IS FURTHER GIVEN that advice regarding this notice is available from the San Francisco Residential Rent Stabilization and Arbitration Board.

Dated: May 22, 2014

Cooper, White & Cooper LLP



Stanley W Riddell
201 California Street, 17th Floor
San Francisco, CA 94111
(415) 433-1900
Attorney for Owner
Gary Yeung

EXHIBIT D



SAN FRANCISCO PLANNING DEPARTMENT

Report for Parcel: 0574002

Block Book Notifications Report: 0574002

A Block Book Notification (BBN) is a request made by a member of the public to be notified of permits on any property that is subject to the San Francisco Planning Code.

BLOCK BOOK NOTIFICATIONS:

BBN No.*	BBN24241
Name.*	Jordan Klein
Title.*	
Organization.*	MOEWD
Address.*	San Francisco, CA, 94103
Phone 1.*	415-554-6645
Phone 2.*	
Email.*	Jordan.Klein@sfgov.org
Site.*	Polk from California to Broadway
Blocks.*	
Notify of.*	Invest in Neighborhoods Notification-Polk
Notes.*	Parcel is in Invest in Neighborhoods corridor. Do not hold over the counter permits. Please notify the listed contact at Office of Economic & Workforce Development for any changes of use, expansion, new construction or miscellaneous permit referrals involving the following uses: Group Housing, Bars, Liquor Stores, Walk-up Facilities, Institutions, Restaurants, Massage, Fringe Financial, Adult entertainment, Other entertainment, Medical Cannabis Dispensaries, and Tobacco Paraphernalia.
Request Date.*	4/29/2013
Pay Date.*	
Fee.*	-
Amount Paid.*	
Entered.*	4/29/2013
Expires.*	

BBN No.*	BBN24261
Name.*	Sue Exline
Title.*	
Organization.*	MOEWD
Address.*	San Francisco, CA, 94103
Phone 1.*	415-558-6332
Phone 2.*	
Email.*	Susan.Exline@sfgov.org
Site.*	All Invest in Neighborhood Corridors

Blocks:*
 Notify of:* Invest in Neighborhoods Notification
 Notes:* Parcel is In Invest in Neighborhoods corridor. Do not hold over the counter permits. Please notify Sue Exline for any changes of use, expansion, new construction or miscellaneous permit referrals involving the following uses: Group Housing, Bars, Liquor Stores, Walk-up Facilities, Institutions, Restaurants, Massage, Fringe Financial, Adult entertainment, Other entertainment, Medical Cannabis Dispensaries, and Tobacco Paraphernalia.

Request Date:* 4/29/2013
 Pay Date:*
 Fee:* -
 Amount Paid:* -
 Entered:* 4/29/2013
 Expires:*

BBN No.:* BBN24373
 Name:* Michael Klotsman
 Title:*
 Organization:*
 Address:* 2047 Polk Street Unit A, San Francisco, CA, 94109
 Phone 1:* 323.543.6888
 Phone 2:* 415.644.5125
 Email:* klotsman@me.com
 Site:* 2047,2049 Polk Street
 Blocks:* 1
 Notify of:* All permit activity on block/lot as follows
 Notes:* All building permits applications; change of use; Other: Demolition
 Request Date:* 5/27/2014
 Pay Date:* 5/27/2014
 Fee:* \$35.00
 Amount Paid:* \$35.00
 Entered:* 5/28/2014
 Expires:* 5/27/2015

The Disclaimer: The City and County of San Francisco (CCSF) does not guarantee the accuracy, adequacy, completeness or usefulness of any information. CCSF provides this information on an 'as is' basis without warranty of any kind, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of the information.

EXHIBIT E



PLUMBING PERMIT
CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

PERMIT # PP20140530128 ISSUED

Call between 8:00 am and 3:00 pm to schedule an inspection - (415) 558-6570
24-hour Web inspection scheduling at: http://sfsd.dbiweb.sfgov.org/dbi_plumbing/
24-hour voice inspection scheduling - (415) 575-6955

DATE AND TIME: 06/30/2014 10:24:03 AM

2047 POLK ST

Job Location	2047 A POLK	RENEWAL	AMENDMENT	PID PERMIT #
OWNER	BLDG APPL#	ST	Unit	BLK/LOT 0574 / 002
Owner Name	YFUNG GARY C	Unit	Unit ext	BLK/LOT
Owner Address	2047 POLK	ST	Unit ext	District 4
Owner/Contact		SAN FRANCISCO	CA	Owner Phone 4152381119

Please refer back to licensed public contractors of Chapter 3, Commencing with Sec. 7000 of Division 3 of the Building and Fire Code with all applicable laws and regulations.

CONTRACTOR	HOMEOWNER PERMIT	Approving Inspector
Company Name	License #	Class
C T CONSTRUCTION & PLUMB	633324	B1,C16,C36
Address	City	Expiration
1347 48TH AV	SAN FRANCISCO	06/30/2014
		State
		CA
		ETRC #
		159977
		Zip
		94122
		Phone
		4152037178

DESCRIPTION OF WORK COVERED BY THIS PERMIT:
REMOVE STOVE AND CAP OFF GAS PIPE

FEES:	MAX INSPECTIONS AVAILABLE	?	VALUATION	0.00	BLDG STDS ADMIN FUND	0.00
NUMBER OF ADDITIONAL INSPECTIONS	0 @	0.50 / 1 EA.	0.00	SURVEY:		0.00
NUMBER OF PLAN REVIEW HOURS:	0 @	0.00 / 1 EA.	0.00	MISCELLANEOUS:		0.00
NUMBER OF ADMIN HOURS:	0 @	0.00 / 1 EA.	0.00	FIRE SPRINKLER:		0.00
SINGLE RESIDENTIAL UNIT:			160.00	FIRE SPRINKLER (NEW/REMODEL):	0 @	0.00 / 1 EA.
PLUMBING INSTALLATION (WITHOUT)	0	UNITS	0.00	RESTAURANT (NEW/REMODEL):	0	OUTLETS
PLUMBING INSTALLATION (WITH):	0	UNITS	0.00	Web fee: 0.00	Penalty	0.00
NEW BOILER INSTALLATION:	0 @	0.00 / 1 EA.	0.00	Tech surcharge (2%)		3.20
OFFICE, MFG AND RETAIL BUILDING:	0 @	0.00 / 1 EA.	0.00	TOTAL PERMIT FEE:		163.20

* NOT VALID FOR PERMIT IF ANY EMPLOYEE DESCENDS INTO EXCAVATION DEEPER THAN 6'
Effective 9/7/2009 - Permit shall expire 1 year from date of issuance

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

Date	Initials	Remarks

NOTICE TO APPLICANT HOLD HARMLESS CLAUSE: The permittee(s) by acceptance of the permit, agrees to indemnify and hold harmless the City and County of San Francisco from and against all claims, demands and causes for damages resulting from negligence under the general jurisdiction of the City and County of San Francisco, and to assume the liability of the City and County of San Francisco against such claims, demands and causes.

In conformity with the provisions of Section 3709 of the Labor Code of the State of California, the applicant shall have knowledge under Title 8 (8) designated below or shall designate Item (1)(1), (1)(2), or (2), whichever is applicable, if in which Item (2) is checked, Item (2)(1) shall be checked as well. Mark the appropriate method of compliance below:

- I. I have and will maintain a certificate of deposit to self-insure for workers' compensation, as provided by Section 3700 of the Labor Code for the performance of the work for which this permit is issued.
- II. I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:
Carrier: _____ Policy Number: _____
- III. The cost of the work to be done is \$100 or less.
- X IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the workers' compensation provisions of the Labor Code of California and fail to comply herewith with the provisions of Section 3700 of the Labor Code, that the permit herein applied for shall be deemed revoked.
- V. I certify as the owner (or agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the workers' compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Bank Bureau.

PLEASE MAKE CHECK PAYABLE TO: DEPARTMENT OF BUILDING INSPECTION 1660 MISSION STREET SAN FRANCISCO, CA 94102

Plumbing Inspector's signature:

Initial: _____ Date: _____
Final: _____ Date: _____

Void For Issuance: Approved Date: 06/30/2014 10:04:15 AM

Chief Plumbing Inspector

Steve Panelli

CUSTOMER COPY
Issued by: CVICTORI

EXHIBIT F

NOTICE OF TERMINATION OF TENANCY

TO: Michael Klotsman
All Other Occupants
2047A Polk Street
San Francisco, CA 94109

NOTICE IS HEREBY GIVEN that your tenancy at the premises known as 2047A Polk Street, in San Francisco, California is terminated sixty (60) days from the date of service on you of this notice, and that you must vacate the premises and surrender possession thereof to your landlord, Gary Yeung, c/o Cooper, White & Cooper LLP, 201 California Street, 17th Floor, San Francisco, CA 94111, (415) 433-1900, on or before that date or you will be guilty of an unlawful detainer of the premises. Your failure to surrender possession and vacate the premises within the sixty (60) days will result in legal proceedings being commenced against you to recover possession of the premises and to seek a judgment for costs, including reasonable attorney fees, if appropriate, and damages for your unlawful detainer of the premises.

NOTICE IS FURTHER GIVEN that your tenancy is being terminated pursuant to San Francisco Administrative Code, Chapter 37, Section 37.9(a)(10), on the grounds that the landlord seeks to recover possession of the premises in good faith, without ulterior reasons and with honest intent, to demolish or otherwise permanently remove the rental unit from housing use and have obtained all the necessary permits on or before the date upon which this notice is served on you.

NOTICE IS FURTHER GIVEN that you may have the right to relocation expenses. Pursuant to Section 37.9C, each authorized occupant of a rental unit, regardless of age, who has resided in the unit for 12 or more months ("Eligible Tenant") shall receive \$5,261.00, \$2,630.50 of which shall be paid at the time of the service of the notice of termination of tenancy, and \$2,630.50 of which shall be paid when the unit is vacated. In no case, however, shall the landlord be obligated to provide more than \$15,783.00 in relocation expenses to all Eligible Tenants in the same unit. The landlord is providing you with the first \$2,630.50 of the \$5,261.00 relocation expenses: a check in the amount of \$2,630.50 made payable to Michael Klotsman is enclosed in the certified mailing of this notice to Michael Klotsman.

NOTICE IS FURTHER GIVEN that you may have a right to receive additional relocation expenses pursuant to Section 37.9C. Each Eligible Tenant who is 60 years of age or older or who is disabled within the meaning of Section 12955.3 of the California Government Code, and each household with at least one Eligible Tenant and at least one child under the age of 18 years, shall be entitled to receive an additional payment of \$3,508.00, \$1,754.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the Eligible Tenant of entitlement to the relocation payment along with supporting evidence, and \$1,754.00 of which shall be paid when the Eligible Tenant vacates the unit.

NOTICE IS FURTHER GIVEN that a true and correct copy of San Francisco Administrative Code, Chapter 37, Section 37.9C is attached hereto.

1000035.1

1

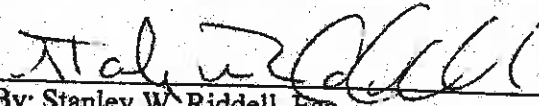
NOTICE OF TERMINATION OF TENANCY
2047A Polk Street

NOTICE IS FURTHER GIVEN that State law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out.

NOTICE IS FURTHER GIVEN that advice regarding this notice is available from the San Francisco Residential Rent Stabilization and Arbitration Board.

DATED: June 4, 2014

COOPER, WHITE & COOPER LLP


By: Stanley W. Riddell, Esq.
201 California Street, 17th Floor
San Francisco, CA 94111
(415) 433-1900
Attorney for Owner
Gary Yeung

cc: S.F. Rent Board

1 Dave Crow (State Bar #212944)
2 Crow & Rose, Attorneys at Law
3 605 Market Street, Suite 400
4 San Francisco, CA 94105

5 Phone: (415) 552-9060
6 Fax: (415) 795-1270

7 Attorney for the Appellant, Michael Klotsman

8 PROOF OF SERVICE BY MAIL

9 CASE NAME: Klotsman v. SFDBI APPEAL NO.:14-105

10 I Dave Crow, declare:

11 That I am employed within the City and County of San Francisco; that my business address is
12 605 Market Street, Suite 400, San Francisco, CA 94105; that I am over the age of eighteen (18) years
13 of age and not a party to the within action.

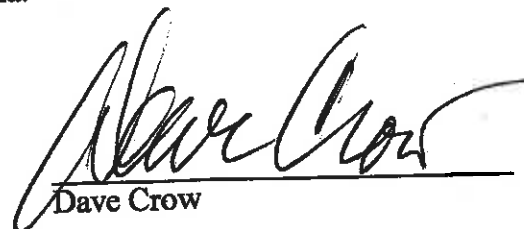
14 That on July 3, 2014, I served the following:

15 APPELLANT'S BRIEF OPPOSING THE PERMIT

16 upon Permit Holder, by putting the same in an envelope, first class postage affixed thereto and
17 depositing the same in a United States Post Office mail box in the City and County of San Francisco,
18 California, addressed to his attorney as follows:

19 Mr. Stanley Riddell
20 Cooper, White & Cooper
21 201 California Street, 17th Floor
22 San Francisco, CA 94111

23 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
24 was executed on July 3, 2014 at San Francisco, California.

25 
26 Dave Crow

1 COOPER, WHITE & COOPER LLP
JEFFERY P. WOO (SBN 132697)
2 jwoo@cwclaw.com
STANLEY RIDDELL (SBN 203338)
3 sriddell@cwclaw.com
201 California Street, 17th Floor
4 San Francisco, California 94111
Telephone: (415) 433-1900
5 Facsimile: (415) 433-5530

6 Attorneys for Gary Yeung, Real Party In Interest
7
8

9 **BOARD OF APPEALS**
10 **CITY AND COUNTY OF SAN FRANCISCO**
11

12 MICHAEL KLOTSMAN,

13 Appellant,

14 vs.

15 CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING
16 INSPECTION,

17 Respondent.
18 _____

19 GARY YEUNG, Real Party In Interest.
20

APPEAL NO. 14-105

**RESPONSE BRIEF OF REAL PARTY IN
INTEREST GARY YEUNG**

Date: July 23, 2014

Time: 5:00 p.m.

Room: 416, One Dr. Carlton B. Goodlett
Place

Permit: PP2014/05/30/128

21 **I. INTRODUCTION**

22 Gary Yeung, real party in interest, is the owner of 2047-2049 Polk Street (the "Building").
23 The Building contains an illegal residential unit, 2047A (the Unit"). Gary Yeung has begun the
24 process of permanently removing the Unit from housing use as authorized by San Francisco Rent
25 Stabilization and Arbitration Ordinance (the "Rent Ordinance") section 37.9(a)(10.)

26 Michael Klotsman (the "Tenant") currently occupies the Unit. By this appeal Tenant seeks
27 to subordinate the Rent Ordinance to San Francisco Planning Code, which does not even apply in
28 the circumstances at issue here. The Tenant purports to rest his argument on four points: First,

1 that the permit at issue here belies its intended purpose to remove the unit from housing use;
2 Second, that the permit as issued is counter to the San Francisco Building codes; Third, the permit
3 cannot be adequately reviewed for its effect on the community; and Fourth, Tenant will incur
4 substantial costs if an unlawful detainer has to be filed by Gary Yeung (see Tenants Brief, pg.2,
5 L2-8.) None of these arguments have any application to the circumstances at issue here.

6 II. FACTS AND PROCEDURAL BACKGROUND

7 Gary Yeung purchased the Building in 2006. The building contained the Unit which had
8 been installed without permits. The Building consists of the Unit, one lawful residential unit, and
9 one commercial unit, that contains Gary Yeung's salon. Tenant claims that the Building was
10 originally constructed as a two residential unit building in 1909 but offers not support for that
11 assertion (Tenants Brief, pg. 2, L10-11.) In fact, the legal configuration of the Building is as a
12 second-floor single-family dwelling over a first floor commercial space (See 3R Report, copy
13 attached collectively as Ex. "1".) Gary Yeung rented 2047A Polk Street to Tenant in 2009.

14 In December 2013 Gary Yeung had a wall heater installed in the unit in response to the
15 Tenant's complaints. As the Unit is not legal the wall heater was installed without permits.
16 Subsequently, the Tenant made a complaint to the Department of Building Inspection, which then
17 issued a Notice of Violation ("NOV") to Gary Yeung for installing the wall heater without permits
18 (See NOV, copy attached as Ex. "2"). In response to the NOV Gary Yeung hired a contractor to
19 obtain a permit to remediate the wall heater (See copy of permit PP20140220343, attached as Ex.
20 "3").

21 However, after the work was completed the Tenant called PG&E to have a safety
22 inspection done of the heater in the Unit, and PG&E issued a hazard notice (Copy attached as Ex.
23 "4"). Gary Yeung determined that it would cost a minimum of \$10,000 to bring the heating up to
24 PG&E compliance in the non-conforming Unit. For this among other reasons Gary Yeung
25 decided to exercise his rights under the Rent Ordinance §37.9(a)(10) and take the Unit
26 permanently out of housing use.

27 While not explicitly required by San Francisco's governing ordinances, California Civil
28 Code §1940.6 imposes a potential penalty on a residential property owner who does not give a

1 tenant notice if the owner is applying to a public agency for a permit to remove a rental unit. Out
2 of an abundance of caution, a pre-permit notice was served on the Tenant pursuant to Civil Code
3 §1940.6, a copy attached as Ex. "5." While the notice is headed by the term permit to demolish,
4 an inspection of the first paragraph of Ex. "5" shows it incorporates the language of Rent
5 Ordinance sec. 37.9(a)(10) "a permit to demolish or otherwise permanently remove the premises
6 from housing use." Subsequently, Gary Yeung had Tenant served with a Notice to Terminate
7 Tenancy in compliance with the Rent Ordinance.

8 It appears from Tenant's argument that he is upset because he signed up for Block Book
9 Notification (a move urged by the Tenant's Union, among others) mistakenly thinking that
10 triggered discretionary review, and any move by the owner to permanently remove an illegal
11 residential unit would come within the meaning of Planning Code sec. 307. This is simply not so,
12 and the action requested by the Tenant should be denied.

13 III. LEGAL AUTHORITY AND ARGUMENT

14 A. The Permit at Issue Here Complies With Applicable Requirements

15 The San Francisco Rent Ordinance (Administrative Code Ch. 37) governs just cause
16 evictions for tenants who are covered by the Rent Ordinance. The just cause evictions are
17 enumerated in section 37.9(a)(1-16).

18 Section 37.9(a)(10) of the Rent Ordinance states:

19 "The landlord seeks to recover possession in good faith in order *to demolish or to*
20 *otherwise permanently remove the rental unit from housing use and has obtained all*
21 *the necessary permits on or before the date upon which notice to vacate is given, and*
22 *does so without ulterior reasons and with honest intent; provided that a landlord who*
23 *seeks to recover possession under this Section 37.9(a)(10) shall pay relocation expenses*
24 *as provided in Section 37.9C except that a landlord who seeks to demolish an*
25 *unreinforced masonry building pursuant to Building Code Chapters 16B and 16C must*
26 *provide the tenant with the relocation assistance specified in Section 37.9A(e) below*
27 *prior to the tenant's vacating the premises" (emphasis added.)*

28 It does not require an owner to demolish a unit. An owner can also recover possession of a
rental unit if the good-faith intent is to permanently remove the unit from housing use. In the past
it has been common for an owner to recover an illegal "in-law" unit using this provision of the
Rent Ordinance. Contrary to the Tenants assertion here, that the permit was obtained "...

1 ostensibly to effect a demolition of the subject premises (See Appellant Brief, pg.3, L19-20), the
2 permit was obtained to remove the illegal Unit permanently from housing use.

3 The Pre-Permit Notice served on the Tenant pursuant to California Civil Code sec. 1940.6
4 informed the Tenant that the Gary Yeung "... will apply to the San Francisco Department of
5 Building Inspection for a permit to demolish or otherwise permanently remove the premises from
6 housing use". This language mirrors that of 37.9(a)(10) of the Rent Ordinance. The notice of
7 termination repeats this same language.

8 B. The Owner Is Not Demolishing The Illegal Unit

9 Tenant asserts to contradictory positions to attempt to support his position, that the
10 Planning Department informed that the permit at issue "... would indeed need to undergo
11 Discretionary Review" (Tenant Brief, pg.3, l.12-13) and that the Planning Department told Tenant
12 that the Department had no authority nor jurisdiction over over-the-counter plumbing permits.
13 (Tenant Brief, pg.3, L.14-16.) Tenant does get it right when he says "There is nothing on the face
14 of the permit [at issue here] that indicates the Permit Holder's intent to demolish [the Unit]".
15 (Tenant Brief, pg.3, L.21-22.) Gary Yeung intends to remove the illegal Unit permanently from
16 housing use. The notice under Civil Code sec. 1940.6 was served to protect Gary Yeung from
17 possible liability of \$2,500 under that State statute for not serving the notice.

18 The Planning Code defines removal with reference to a residential unit as its Conversion,
19 Demolition, or Merger. The Planning Code defines a "Residential Unit" as a legal conforming or
20 non-conforming unit as defined in Planning Code Section 102.7, or a legal non-conforming
21 Live/Work Unit as Defined in Planning Code Section 102.13. (Zoning Controls on the Removal
22 of Dwelling Units-A San Francisco Planning Code Implementation Document-Feb. 2014 Update,
23 pgs.1-5 attached as Ex. "6").

24 Demolition of a residential unit has a very explicit definition under San Francisco Planning
25 Code Planning. Section Code sec. 317 (b)(2) defines it as:

26 " 'Residential Demolition' shall mean any of the following:

27 (A) Any work on a Residential Building for which the Department of Building
28 Inspection determines that an application for a demolition permit is required, or

1 (B) A major alteration of a Residential Building that proposes the Removal of more
2 than 50% of the sum of the Front Facade and Rear Facade and also proposes the Removal of more
3 than 65% of the sum of all exterior walls, measured in lineal feet at the foundation level, or

4 (C) A major alteration of a Residential Building that proposes the Removal of more
5 than 50% of the Vertical Envelope Elements and more than 50% of the Horizontal Elements of the
6 existing building, as measured in square feet of actual surface area.

7 (D) The Planning Commission may reduce the above numerical elements of the
8 criteria in Subsections (b)(2)(B) and (b)(2)(C), by up to 20% of their values should it deem that
9 adjustment is necessary to implement the intent of this Section 317, to conserve existing sound
10 housing and preserve affordable housing."

11 The San Francisco Department of Building Inspection has not determined that an
12 application for a demolition permit is required for the work covered by the permit at issue here.
13 Nor could it. The Unit is not a legal conforming or no-conforming dwelling unit. It is an illegal
14 unit built without permits.

15 Gary Yeung does not intend (and is not required by Rent Ordinance sec. 37.9(a)(10)) to
16 remove more than 50% of the sum of the front or rear facade or propose to remove more than 65%
17 of the sum of all exterior walls, measured in lineal feet at the foundation level. Nor does he
18 propose to remove more than 50% of the vertical envelope elements and more than 50% of the
19 horizontal elements of the Building. The work intended here does not require a Planning
20 Department review of plans or project, and is fully consistent with the requirements of San
21 Francisco's ordinances. Tenant is simply incorrect that the permit at issue here cannot support the
22 removal of the Unit under Rent Ordinance sec. 37.9(a)(10).

23 C. Executive Order 13-01

24 On February 3, 2014, the San Francisco Planning Department and Department of Building
25 Inspection issued a joint memorandum addressing Executive Order 13-01 (Copy attached as Ex.
26 "7"), making recommendations for its implementation. The Memorandum recommended that
27 Mandatory Discretionary Review of the removal of a residential unit only apply to a building with
28 three or more residential units (presumably legal residential units) where a unit is being removed

1 rather than legalized under Ordinance No. 43-14. On May 8, 2014, the Planning Department
2 issued a further memorandum, along with a draft of Implementation Guidelines (Copy attached as
3 Ex. "8"), which repeated the guideline that discretionary review is appropriate only where a
4 residential unit is being removed from a building with three or more residential units.

5 Here, Gary Yeung is not removing from housing unit a legal unit from a building with
6 three or more residential units. The building has a single legal residential unit and the illegal unit,
7 along with one commercial space. He is permanently removing the illegal Unit from housing use
8 under the Rent Ordinance sec. 37.9(a)(10). Discretionary Review of the permit at issue here is not
9 appropriate under these circumstances.

10 D. The Board of Supervisors Has Addressed the Issue of Illegal Units Under Ord. 43-
11 14.

12 The Tenant cites recent policy steps taken by the City and County of San Francisco
13 involving the legalization of illegal "in-law" units to a legal status, and urges that these be a basis
14 for the Board's decision here (Tenant Brief, pg.6, L.23 – pg. 9, L.12.) The Tenant also cites *City*
15 *and County of San Francisco v. Board of Appeals* (1989) 207 CA3d 1099, as the authority for the
16 Board to take the steps urged by the Tenant. (Tenant Brief, pg.4, L.16-26.) However, the
17 question determined in that case was not whether the Board had authority to hear the appeal of a
18 Planning Department's decision to deny a permit. It was that a decision of the Board must comport
19 with existing ordinances and regulations. *City and County of San Francisco v. Board of Appeals*
20 207 CA3d at 1104-1105.

21 On April 14, 2014, Mayor Lee signed as approved San Francisco Ordinance 43-14 (Copy
22 attached as Exhibit "9".) This ordinance provides a mechanism, by amending certain Planning and
23 Building Codes, for an owner of a building to voluntarily seek legal status for an existing dwelling
24 unit constructed without required permits. As the Ordinance and Department of Building
25 Inspection's guidelines make clear, this is a voluntary program. Here, the owner Gary Yeung has
26 reached the conclusion that taking the Unit permanently out of housing use under Rent Ordinance
27 sec. 37.9(a)(10) is preferable to trying to legalize the Unit. As the guidelines for implementation,
28 both those of the Planning Department and the Department of Building Inspection make clear, this

1 response to the Planning Departments Executive Directive 13-01 dealing with guidelines for the
2 removal of housing units contemplates that discretionary review for loss of housing units would
3 apply only to building larger than two legal units. As the Building is authorized for only a single
4 legal residential unit, the Building wouldn't meet this threshold step of Executive Directive 13-01.

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E. Tenant Will Not be Prejudiced by Issuing the Permit

Tenant contends that he will be prejudiced if the permit is issued because he will incur substantial costs in opposing an unlawful detainer lawsuit. The Tenant could easily avoid these costs by simply complying with the 60-day notice to vacate that was served on him, along with the first half of the required relocation. Tenant here attempts to misuse the Permit Appeal process to force Gary Yeung into complying with a process that is not required by San Francisco Planning Codes, Building Codes, or the Administrative Code.

III. CONCLUSION

As Gary Yeung has complied with the requirements for the removal of an illegal unit, the Board should order that the permit be granted and that the Department of Building Inspection issue the permit.

DATED: July 17, 2014

COOPER, WHITE & COOPER LLP

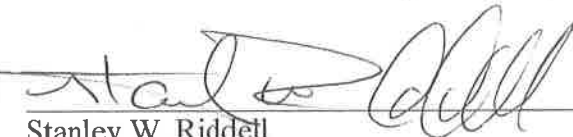
By: 
Stanley W. Riddell
Attorneys for Gary Yeung, Real Party In Interest

EXHIBIT "1"



Report of Residential Building Record (3R)
(Housing Code Section 351(a))

BEWARE: This report describes the current legal use of this property as compiled from records of City Departments. There has been no physical examination of the property itself. This record contains no history of any plumbing or electrical permits. The report makes no representation that the property is in compliance with the law. Any occupancy or use of the property other than that listed as authorized in this report may be illegal and subject to removal or abatement, and should be reviewed with the Planning Department and the Department of Building Inspection. Errors or omissions in this report shall not bind or stop the City from enforcing any and all building and zoning codes against the seller, buyer and any subsequent owner. The preparation or delivery of this report shall not impose any liability on the City for any errors or omissions contained in said report, nor shall the City bear any liability not otherwise imposed by law.

Address of Building 2047 - 2049 POLK ST

Block 0574

Lot 002

Other Addresses

1. A. Present authorized Occupancy or use: ONE FAMILY DWELLING & COMMERCIAL
 B. Is this building classified as a residential condominium? Yes No
 C. Does this building contain any Residential Hotel Guest Rooms as defined in Chap. 41, S.F. Admin. Code? Yes No
 2. Zoning district in which located: POLK 3. Building Code Occupancy Classification: R3/B
 4. Do Records of the Planning Department reveal an expiration date for any non-conforming use of this property? Yes No
 If Yes, what date? The zoning for this property may have changed. Call Planning Department, (415) 558-6377, for the current status.
 5. Building Construction Date (Completed Date): 1909
 6. Original Occupancy or Use: TWO FAMILY DWELLING
 7. Construction, conversion or alteration permits issued, if any:

Application #	Permit #	Issue Date	Type of Work Done	Status
15589	15589	Mar 23, 1908	NEW CONSTRUCTION	N
109900	100436	Jul 29, 1948	ALTER PORCH	C
236456	211152	May 24, 1960	STUCCO BUILDING FRONT	C
9404677	759865	Dec 01, 1994	LEGALIZE 2ND FLOOR BACK TO SINGLE FAMILY DWELLING OVER 1ST FLOOR COMMERCIAL - CFC 1 FD	C
200112265895	956024	Dec 26, 2001	REPLACE 12 WINDOWS	C

8. A. Is there an active Franchise Tax Board Referral on file? Yes No
 B. Is this property currently under abatement proceedings for code violations? Yes No
 9. Number of residential structures on property? 1
 10. A. Has an energy inspection been completed? Yes No B. If yes, has a proof of compliance been issued? Yes No

Date of Issuance: 24 OCT 2013

Date of Expiration: 24 OCT 2014

By: MAGGIE HE

Report No: 201310175478

Patty Herrera, Manager, Records Management Division

Gayle Revels

Gayle Revels
Acting Chief Financial Officer

Address of Building 2047 - 2049 POLK ST

Block 0574

Lot 002

Other Addresses

THIS REPORT IS VALID FOR ONE YEAR ONLY.

The law requires that, prior to the consummation of the sale or exchange of this property, the seller must deliver this report to the buyer and the buyer must sign it.

(For Explanation of terminology, see attached)

EXHIBIT "2"

DEPARTMENT OF BUILDING INSPECTION

City and County of San Francisco
 1330 Mission St. San Francisco, CA 94103-2414

IDENTIFICATION NUMBER
 SECOND NOTICE
 OTHER:

201344411

ADDRESS 2049 Polk ST

DATE 2/4/14

OCCUPANCY / USE M YI

BLOCK 0574 002

CONST. TYPE

STORIES _____ BASEMENT

If checked, this information is based upon site observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

OWNER / AGENT Young GARY C

PHONE # _____

MAILING ADDRESS 2047 Polk

CITY SF, CA

ZIP 94109

PERSON CONTACTED @ SITE _____

PHONE # _____

VIOLATION DESCRIPTION:

- WORK WITHOUT PERMIT (SFBC 103A); ADDITIONAL WORK PERMIT REQUIRED (SFBC 106A.4.2)
 EXPIRED PERMIT (SFBC 106A.4.4); CANCELLED PERMIT (SFBC 106A.3.7) PAF
 UNSAFE BUILDING (SFBC 102A); SEE ATTACHMENTS

CODE / SECTION #

A Complaint has been filed regarding the installation of a wall PAN without permit also the installation of a hot water heater

SFPC
 Chpt 1
 5
 103.1

BC - Building Code HC - Housing Code PC - Plumbing Code EOC - Electrical Code MO - Mechanical Code

CORRECTIVE ACTION:

STOP ALL WORK SFBC 104A.2.4

FILE BUILDING PERMIT APPLICATION WITHIN _____ DAYS (WITH PLANS) A Copy of This Notice Must Accompany the Permit Application.

OBTAIN PERMIT WITHIN 15 DAYS AND COMPLETE ALL WORK WITHIN 15 DAYS, INCLUDING FINAL INSPECTION AND SIGNOFF.

CORRECT VIOLATIONS WITHIN 15 DAYS. NO PERMIT REQUIRED.

YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED _____, THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.

FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN. SEE REVERSE SIDE FOR ADDITIONAL WARNINGS.

Hire STATE Lic Contractor secure permit, uncover concealed piping, test gas piping and schedule inspection

INVESTIGATION FEE OR OTHER FEE WILL APPLY See reverse side for further explanation

- 9x Permit Fee (Work w/o Permit after 9/1/60) 2x Permit Fee (Work Exceeding Scope of Permit)
 Other _____ Reinspection Fee \$ _____ No penalty (Work w/o permit prior to 9/1/60)

APPROX. DATE OF WORK W/O PERMIT _____ VALUE OF WORK PERFORMED WITHOUT PERMITS _____

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR DAVID LEDDA (Inspector - Print Name)

OFFICE HOURS 7:30 TO 9:00 AM AND 3:00 TO 4:00 PM

PHONE 415 558-6047

By: (Inspector's Signature) _____ DISTRICT # Complaints

CC: DCP EID PID BID HIS CED PRS DAD SFFD DPH PS

- Building Inspection Division
3rd Floor, 1660 Mission St. 558-6096
- Housing Inspection Services
6th Floor, 1660 Mission St. 558-6220
- Electrical Inspection Division
3rd Floor, 1660 Mission St. 558-6030
- Plumbing Inspection Division
3rd Floor, 1660 Mission St. 558-6054
- Code Enforcement Division
3rd Floor, 1660 Mission St. 558-6454

EXHIBIT "3"



PLUMBING PERMIT
CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION

PERMIT # PP20140220343 ISSUED

DATE AND TIME: 02/20/2014 09:49:43 AM

Call between 8:00 am and 3:00 pm to schedule an inspection - (415) 558-6570
24-hour Web inspection scheduling at: https://dbiweb.sfgov.org/dbi_plumbing/
24-hour voice inspection scheduling - (415) 575-6955

2049 POLK ST

Job Location	2049	POLK	RENEWAL	ST	AMENDMENT	PID PERMIT #
			Unit	Unit sfx		BLK/LOT 0574 / 002
			Unit	Unit sfx		BLK/LOT
OWNER:	BLDG APPL#		EID PMT#		District 1	
Owner Name	YEUNG GARY C		Owner/Contact			
Owner Address	2049	POLK	ST	SAN FRANCISCO	CA	Owner Phone 4158289119

I hereby affirm that I am licensed under provisions of Chapter 9 (Commencing with Sec. 7000) of Division 3 of the Business and Professions code, and my license is in full force and effect.

CONTRACTOR:	HOMEOWNER PERMIT:	Approving Inspector:
Company Name C T CONSTRUCTION & PLUMB Address 1847 48TH AV	License # 533324 City SAN FRANCISCO	Expiration 06/30/2014 State CA BTRC # 159977 Zip 94122 Phone 4152037178

DESCRIPTION OF WORK COVERED BY THIS PERMIT:
RUN NEW GAS LINE PIPE FOR WATER HEATER AND STOVE & ONE WALL HEATER.

FEES:	MAX INSPECTIONS AVAILABLE	2	VALUATION	1,500.00	BLDG STDS ADMIN FUND	1.00
NUMBER OF ADDITIONAL INSPECTIONS	0 @	0.00 / 1 EA.	0.00	SURVEY:		0.00
NUMBER OF PLAN REVIEW HOURS:	0 @	0.00 / 1 EA.	0.00	MISCELLANEOUS:		0.00
NUMBER OF ADMIN HOURS:	0 @	0.00 / 1 EA.	0.00	FIRE SPRINKLER:		0.00
SINGLE RESIDENTIAL UNIT:			160.00	FIRE SPRINKLER (NEW/REMODEL):	0 @	0.00 / 1 EA.
PLUMBING INSTALLATION (WITHOUT)	0	UNITS	0.00	RESTAURANT (NEW/REMODEL):	0	OUTLETS
PLUMBING INSTALLATION (WITH):	0	UNITS	0.00	Web fee: 0.00	Penalty	0.00
NEW BOILER INSTALLATION:	0 @	0.00 / 1 EA.	0.00	Tech surcharge (2%)		3.20
OFFICE, MERC AND RETAIL BUILDING:	0 @	0.00 / 1 EA.	0.00			
TOTAL PERMIT FEE:						164.20

*** NOT VALID FOR PERMIT IF ANY EMPLOYEE DESCENDS INTO EXCAVATION DEEPER THAN 5'**
Effective 8/7/2009 - Permit shall expire 1 year from date of issuance.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

Date	Initials	Remarks
3/3/14	DL	W/H @ gas line past Apprd and wall heater.

NOTICE TO APPLICANT HOLD HARMLESS CLAUSE: The permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands or actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have coverage under (I), or (II) designated below or shall indicate item (III), or (IV), or (V), whichever is applicable. If however item (V) is checked item (IV) must be checked as well. Mark the appropriate method of compliance below:

- I. I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided by Section 3700 of the Labor Code for the performance of the work for which this permit is issued.
- II. I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are: _____ Policy Number: _____
- III. The cost of the work to be done is \$100 or less.
- X IV. I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the workers' compensation provisions of the Labor Code of California and fail to comply forthwith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.
- V. I certify as the owner (or the agent for the owner) that in the performance of the work for which this permit is issued, I will employ a contractor who complies with the workers' compensation laws of California and who, prior to the commencement of any work, will file a completed copy of this form with the Central Permit Bureau.

PLEASE MAKE CHECK PAYABLE TO: DEPARTMENT OF BUILDING INSPECTION 1660 MISSION STREET SAN FRANCISCO, CA 94103

Plumbing Inspector's signatures:
Rough In: _____
Final: _____

Date: _____
Date: 3/3/14

Valid For Issuance: Approved Date: 02/20/2014 09:47:09 AM

Chief Plumbing Inspector: *Steve Panelli*

CUSTOMER COPY
Issued by: CVICTORI

EXHIBIT "4"



Pacific Gas and Electric Company

Hazard Notice

Date 4-15-1

Time of Day 2:35 p

Location: 2047 Polk St City: SF

While working at your premises today, a PG&E representative observed the following UNSAFE AND HAZARDOUS condition involving your gas/electric equipment.

Wash heater found spill switch not closed
and also flame distorted and flaming
in pipes back of combustion chamber

Equipment type: Water heater Make: Williams Model/Serial No.: 25096221

The condition and maintenance of your equipment is your responsibility. However, to assist you in protecting yourself from a HAZARDOUS condition, the following action was taken:

- 1. The equipment was disconnected.
- 2. A portion of the equipment was shut off at the orifice/electric circuit breaker/switch.
- 3. The gas/electric supply was turned off or not turned on at the gas/electric meter.

(We recommend the corrections be made by a qualified dealer/contractor)

- 1. Once repairs have been made, your dealer/contractor should place the appliance back in service and check it for safety.
- 2. For a gas/electric turn on at the meter and an appliance safety check after repairs have been completed to your gas/electric equipment, PLEASE CALL PG&E at 1-800-743-5000.
- 3. For an appliance safety check after your repairman has made repairs and reconnected the gas/electric equipment, PLEASE CALL PG&E at 1-800-743-5000.

For information regarding inspection requirements, contact your local city/county offices.

I acknowledge receipt of this notice

Chan
PG&E Representative

[Signature]
Customer's Signature



Pacific Gas and Electric Company

SERVICE REPORT

PG&E Visited your Property Today to Service Your Account

Valued Customer: 2047 Address: POCK ST

Service Date/Time: 4-15-14 A.M./P.M.

Service Technician: [Signature] Confirmation/Field Order #: 648525899

Transaction Type: _____

- SORRY WE MISSED YOU: Unfortunately we were not able to complete your service request because it requires your presence or the presence of an adult. Please call us at 1-800-743-5000.
- SORRY WE MISSED YOU: Please see reverse side for additional information

Gas Service

Service/Inspection of Gas Equipment								
Appliance Type	Inspected	Cleaned Burner Pilot	Filter Inspected	Adjusted	Repaired	Gas Leak Repaired	Parts/Contractor Referral	Unsafe Condition Identified
Range	X							
Oven	X							
Water Heater								
Heating Appliance	X						X	
Dryer								
Pool/Spa Heater								
Other								

Electric Service

Service/Inspection of Electric Equipment					
Equipment Type	Inspected	Voltage Read	Problem Corrected	Parts/Contractor Referral	Unsafe Condition Identified
Service Panel					
Voltage Problem					
Complete Outage					
Partial Outage					
Electric Range					
Electric Water Heater					
Other					

Remarks:

to come unit in back found no gas wall heater ~~spillage~~ spill switch not connected and also flame distorted impinges back of combustion chamber. Disconnect wall heater. refer to dealer.

Additional PG&E Work Required

- The work you requested will require additional PG&E follow up or repairs to complete. Please refer to your case number above when calling for additional information regarding your request.

Thank you for the opportunity to serve you

Were you satisfied with the service? Yes No If your answer is "No" how can we improve?

Comments: See the back of this form for additional services

EXHIBIT "5"

**NOTICE OF APPLICATION FOR PERMIT
TO DEMOLISH RESIDENTIAL DWELLING**

Civil Code §1940.6

TO: Michael Klotsman
All Other Occupants
2047A Polk Street
San Francisco, CA 94109

NOTICE IS HEREBY GIVEN that the owners of the premises known as 2047A Polk Street, in San Francisco, California will apply to the San Francisco Department of Building Inspection for a permit to demolish or otherwise permanently remove the premises from housing use.

NOTICE IS FURTHER GIVEN that the owners expect the earliest possible approximate date on which the demolition or permanent removal to occur will be August 8, 2014, unless you voluntarily vacate the premises sooner.

NOTICE IS FURTHER GIVEN that the owners expect the approximate date on which your tenancy will terminate will be August 1, 2014.

NOTICE IS FURTHER GIVEN that advice regarding this notice is available from the San Francisco Residential Rent Stabilization and Arbitration Board.

Dated: May 22, 2014

Cooper, White & Cooper LLP



Stanley W Riddell
201 California Street, 17th Floor
San Francisco, CA 94111
(415) 433-1900
Attorney for Owner
Gary Yeung

PROOF OF SERVICE BY MAIL - CCP §§ 1013a, 2015.5

I declare that: I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is 201 California Street, 17th Floor, San Francisco, California 94111.

On May 22, 2014, I served the following document:

NOTICE OF CHANGE OF TERMS OF TENANCY (RENT INCREASE)

By First-Class Mail: I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing, with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified above, as to each of the parties identified below, a true copy of the above referenced document was placed for deposit in the United States Postal Service in San Francisco, California, in a sealed envelope with postage thereon fully prepaid, via First-Class Mail; and on that same date that envelope was first placed for collection in the firm's daily mail processing center, located at San Francisco, California following ordinary business practices, addressed as follows:

Michael Klotsman
2047A Polk Street
San Francisco, CA 94109

All Other Occupants
2047A Polk Street
San Francisco, CA 941090

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

Dated: May 22, 2014



Jenny Yu

PROOF OF SERVICE BY CERTIFIED MAIL - CCP §§ 1013a, 2015.5

I declare that: I am employed in the City and County of San Francisco, California.

I am over the age of eighteen years and not a party to the within entitled cause; my business address is 201 California Street, 17th Floor, San Francisco, California 94111.

On May 22, 2014, I served the following document(s):


NOTICE OF APPLICATION FOR PERMIT TO DEMOLISH RESIDENTIAL DWELLING (Civil Code §1940.6)

By Certified Mail – Return Receipt Requested: I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing, with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified above, as to each of the parties identified below, a true copy of the above referenced document was placed for deposit in the United States Postal Service in San Francisco, California, in a sealed envelope with postage thereon fully prepaid, via Certified Mail, Return Receipt Requested; and on that same date that envelope was first placed for collection in the firm's daily mail processing center, located at San Francisco, California following ordinary business practices, addressed as follows:

Michael Klotsman
2047A Polk Street
San Francisco, CA 94109

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

Dated: May 22, 2014



Jenny Yu

EXHIBIT "6"

NOTICE OF TERMINATION OF TENANCY

TO: Michael Klotsman
All Other Occupants
2047A Polk Street
San Francisco, CA 94109

RECEIVED
2014 JUN - 5 PM 5:54
S.F. RESIDENTIAL TENANT
STABILIZATION BOARD
ARBITRATION BOARD

NOTICE IS HEREBY GIVEN that your tenancy at the premises known as 2047A Polk Street, in San Francisco, California is terminated sixty (60) days from the date of service of this notice, and that you must vacate the premises and surrender possession thereof to your landlord, Gary Yeung, c/o Cooper, White & Cooper LLP, 201 California Street, 11th Floor, San Francisco, CA 94111, (415) 433-1900, on or before that date or you will be guilty of an unlawful detainer of the premises. Your failure to surrender possession and vacate the premises within the sixty (60) days will result in legal proceedings being commenced against you to recover possession of the premises and to seek a judgment for costs, including reasonable attorney fees, if appropriate, and damages for your unlawful detainer of the premises.

NOTICE IS FURTHER GIVEN that your tenancy is being terminated pursuant to San Francisco Administrative Code, Chapter 37, Section 37.9(a)(10), on the grounds that the landlord seeks to recover possession of the premises in good faith, without ulterior reasons and with honest intent, to demolish or otherwise permanently remove the rental unit from housing use and have obtained all the necessary permits on or before the date upon which this notice is served on you.

NOTICE IS FURTHER GIVEN that you may have the right to relocation expenses. Pursuant to Section 37.9C, each authorized occupant of a rental unit, regardless of age, who has resided in the unit for 12 or more months ("Eligible Tenant") shall receive \$5,261.00, \$2,630.50 of which shall be paid at the time of the service of the notice of termination of tenancy, and \$2,630.50 of which shall be paid when the unit is vacated. In no case, however, shall the landlord be obligated to provide more than \$15,783.00 in relocation expenses to all Eligible Tenants in the same unit. The landlord is providing you with the first \$2,630.50 of the \$5,261.00 relocation expenses: a check in the amount of \$2,630.50 made payable to Michael Klotsman is enclosed in the certified mailing of this notice to Michael Klotsman.

NOTICE IS FURTHER GIVEN that you may have a right to receive additional relocation expenses pursuant to Section 37.9C. Each Eligible Tenant who is 60 years of age or older or who is disabled within the meaning of Section 12955.3 of the California Government Code, and each household with at least one Eligible Tenant and at least one child under the age of 18 years, shall be entitled to receive an additional payment of \$3,508.00, \$1,754.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the Eligible Tenant of entitlement to the relocation payment along with supporting evidence, and \$1,754.00 of which shall be paid when the Eligible Tenant vacates the unit.

NOTICE IS FURTHER GIVEN that a true and correct copy of San Francisco Administrative Code, Chapter 37, Section 37.9C is attached hereto.

NOTICE IS FURTHER GIVEN that State law permits former tenants to reclaim abandoned personal property left at the former address of the tenant, subject to certain conditions. You may or may not be able to reclaim property without incurring additional costs, depending on the cost of storing the property and the length of time before it is reclaimed. In general, these costs will be lower the sooner you contact your former landlord after being notified that property belonging to you was left behind after you moved out.

NOTICE IS FURTHER GIVEN that advice regarding this notice is available from the San Francisco Residential Rent Stabilization and Arbitration Board.

DATED: June 4, 2014

COOPER, WHITE & COOPER LLP



By: Stanley W. Riddell, Esq.
201 California Street, 17th Floor
San Francisco, CA 94111
(415) 433-1900
Attorney for Owner
Gary Yeung

cc: S.F. Rent Board

SEC. 37.9C. TENANTS RIGHTS TO RELOCATION FOR NO-FAULT EVICTIONS.

(a) Definitions.

(1) Covered No-Fault Eviction Notice, For purposes of this section 37.9C, a Covered No-Fault Eviction Notice shall mean a notice to quit based upon Section 37.9(a)(8), (10), (11), or (12).

(2) Eligible Tenant, For purposes of this section 37.9C, an Eligible Tenant shall mean any authorized occupant of a rental unit, regardless of age, who has resided in the unit for 12 or more months.

(b) Each Eligible Tenant who receives a Covered No-Fault Eviction Notice, in addition to all rights under any other provision of law, shall be entitled to receive relocation expenses from the landlord, in the amounts specified in section 37.9C(e).

(c) On or before the date of service of a Covered No-Fault Eviction Notice, the landlord shall notify all occupant(s) in the unit in writing of the right to receive payment under this section 37.9C and the amount of that relocation and shall provide a copy of section 37.9C. Such notification shall include a statement describing the additional relocation expenses available for Eligible Tenants who are senior or disabled and for households with children. The landlord shall file a copy of this notification with the Rent Board within 10 days after service of the notice, together with a copy of the notice to vacate and proof of service upon the tenant.

(d) A landlord who pays relocation expenses as required by this Section in conjunction with a notice to quit need not pay relocation expenses with any further notices to quit based upon the same just cause under Section 37.9(a) for the same unit that are served within 180 days of the notice that included the required relocation payment. The relocation expenses continued herein are separate from any security or other refundable deposits as defined in California Code Section 1950.5. Further, payment or acceptance of relocation expenses shall not operate as a waiver of any rights a tenant may have under law.

(e) Relocation expenses shall be:

(1) Each Eligible Tenant receiving a Covered No-Fault Eviction Notice shall receive \$4,500.00, \$2,250.00 of which shall be paid at the time of the service of the notice to quit, and \$2,250.00 of which shall be paid when the unit is vacated. In no case, however, shall the landlord be obligated under this section 37.9C(e)(1) to provide more than \$13,500.00 in relocation expenses to all Eligible Tenants in the same unit.

(2) In addition, each Eligible Tenant who is 60 years of age or older or who is disabled within the meaning of Section 12955.3 of the California Government Code, and each household with at least one Eligible Tenant and at least one child under the age of 18 years, shall be entitled to receive an additional payment of \$3,000.00. \$1,500.00 of which shall be paid within fifteen (15) calendar days of the landlord's receipt of written notice from the Eligible Tenant of entitlement to the relocation

payment along with supporting evidence, and \$1,500.00 of which shall be paid when the Eligible tenant vacated the unit. Within 30 days after notification to the landlord of a claim of entitlement to additional relocation expenses because of disability, age, or having children in the household, the landlord shall give written notice to the Rent Board of the Claim for additional relocation assistance and whether or not the landlord disputes the claim.

(3) Commencing March 1, 2007, these relocation expenses, including the maximum relocation expenses per unit, shall increase annually, rounded to the nearest dollar, at the rate of increase in the "rent of primary residence" expenditure category of the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose Region for the preceding calendar year, as that data is made available by the United States Department of Labor and published by the Board.

GARY YEUNG
2047 POLK STREET
SAN FRANCISCO, CA 94109

1016
11-8166/3210
95

June 1 2014
DATE

PAY TO THE ORDER OF Michael Plotzman \$2,630.50
Twenty Six Hundred Thirty ⁵⁰/₁₀₀ DOLLARS

Machine Check



FIRST REPUBLIC BANK

Private Banking-San Francisco
1111 Pine Street
San Francisco, CA 94111
Ph (415) 392-1400 / (800) 392-1407 (After Coast Area)

2047A Polk St
SF CA 94109

FOR Relocation Fee

Gary Yeung

⑆321081669⑆ 80000843152⑈ 01016

Security Features Details on Back.

PROOF OF SERVICE BY CERTIFIED MAIL - CCP §§ 1013a, 2015.5

I declare that: I am employed in the City and County of San Francisco, California.

I am over the age of eighteen years and not a party to the within entitled cause; my business address is 201 California Street, 17th Floor, San Francisco, California 94111.

On June 4, 2014, I served the following document(s):

NOTICE OF TERMINATION OF TENANCY

By Certified Mail – Return Receipt Requested: I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing, with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified above, as to each of the parties identified below, a true copy of the above referenced document was placed for deposit in the United States Postal Service in San Francisco, California, in a sealed envelope with postage thereon fully prepaid, via Certified Mail, Return Receipt Requested; and on that same date that envelope was first placed for collection in the firm's daily mail processing center, located at San Francisco, California following ordinary business practices, addressed as follows:

Michael Klotsman
2047A Polk Street
San Francisco, CA 94109

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

Dated: June 4, 2014



Jenny Yu

S.F. RESIDENTIAL RENT
STABILIZATION AND
ARBITRATION BOARD

2014 JUN -5 PM 2:55

RECEIVED

PROOF OF SERVICE BY MAIL - CCP §§ 1013a, 2015.5

I declare that: I am employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is 201 California Street, 17th Floor, San Francisco, California 94111.

On June 4, 2014, I served the following document:

NOTICE OF TERMINATION OF TENANCY

By First-Class Mail: I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing, with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business. On the date specified above, as to each of the parties identified below, a true copy of the above referenced document was placed for deposit in the United States Postal Service in San Francisco, California, in a sealed envelope with postage thereon fully prepaid, via First-Class Mail; and on that same date that envelope was first placed for collection in the firm's daily mail processing center, located at San Francisco, California following ordinary business practices, addressed as follows:

Michael Klotsman
2047A Polk Street
San Francisco, CA 94109

All Other Occupants
2047A Polk Street
San Francisco, CA 94109

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

Dated: June 4, 2014



Jenny Yu

RECEIVED
2014 JUN -5 PM 2:55
S.F. RESIDENTIAL RENT
STABILIZATION AND
ARBITRATION BOARD

EXHIBIT "7"



Zoning Controls on the Removal of Dwelling Units

A SAN FRANCISCO PLANNING CODE
IMPLEMENTATION DOCUMENT

SAN FRANCISCO PLANNING DEPARTMENT | UPDATED FEBRUARY 2014



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1650 Mission Street Suite 400
San Francisco, CA 94103-3114
www.sfplanning.org

Cover photo by Wolfgang Staudt
<http://www.flickr.com/photos/wolfgangstaudt/2865419002/in/set-72157616790238654/>

Summary

During recent decades, the loss of existing housing has been a significant issue of San Francisco land use. Unchecked, such housing loss can have profound effects on neighborhood character and on the financial accessibility of housing.

The Planning Code, in Section 317, as well as in Articles 2, 7, 8, 10, and 11, requires a public hearing before the Planning Commission to review any application that would remove dwelling units, whether by demolition, merger with other dwellings, or by conversion to non-residential uses. The Code does provide some administrative exceptions, where Planning staff may approve an application to remove dwelling units without a public hearing, if the project meets certain specific requirements.

In the majority of cases, whether Conditional Use authorization or Discretionary Review is mandated depends on the number of units proposed for removal, their location within the building, and the zoning district of the property. Proposed removal of three or more units will always require a Conditional Use hearing. Of course, applications to remove or significantly alter historic structures require additional review.

Please note that pursuant to Mayor Lee's Executive Directive 13-01 (issued December 18, 2013), the Planning Department has implemented additional policies aimed at preserving the loss of housing. See the joint Planning/DBI response memorandum to Executive Directive 13-01 for more information.

This document explains the definitions, criteria, and procedures for filing and the review of applications to remove dwellings. Some of those criteria are numerical thresholds and values – those are subject to periodic, administrative updates that respond to changing economic conditions. The Planning Commission may adjust certain other numerical standards in order to implement the intent of the Code more effectively. Please see the Department's website, www.sfplanning.org, or go to the Planning Information Center for the latest adopted values, and to obtain applications, other forms and information.

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Part I. Policies & Objectives

The City and County of San Francisco is experiencing a crisis in its ability to house its citizens, particularly those of low-income households. San Francisco's well-being and vitality depend on the City having a range of housing types and prices for all its inhabitants.

The Master Plan for the City and County of San Francisco is called The General Plan, and it guides all improvement and development. Its Elements, Objectives, and Policies contain goals that can compete for priority. As a means to resolve this, Section 101.1(b) of The Planning Code establishes eight Priority Policies. Before issuing permits for demolition or change of use, the City must find that the proposal is consistent with the General Plan and the Priority Policies. Those relating to the loss of residential units and replacement construction are:

PRIORITY POLICY 2

That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

PRIORITY POLICY 3

That the City's supply of affordable housing be preserved and enhanced.

The General Plan is the foundation for Planning Code requirements that protect and conserve existing housing and neighborhood character. It recognizes that sound, existing housing is our most financially accessible for ownership and our greatest pool of rental housing. Mandated hearings increase the scrutiny of applications that would demolish, convert, or merge residential units. The Housing Element of the General Plan contains Objectives and Policies that affect the loss and replacement of residential units. Please review the Housing Element of the San Francisco General Plan for more detail.

Part 2: Planning Code Requirements

The Planning Code requires a public hearing for the review of any proposal to remove dwelling units, whether by demolition, merger with other dwellings, or by conversion to non-residential uses, with certain exceptions. In many Zoning Districts of San Francisco, Conditional Use Authorization is required to remove a dwelling unit. Proposed removal of three or more units will always require a Conditional Use hearing. Where Conditional Use is not required, the Planning Commission will consider applications to remove dwellings at Discretionary Review hearings.

Where applications that are demolitions, or tantamount to demolitions, are required to have Conditional Use or Discretionary Review hearings, the replacement building or alteration project shall also be considered. Permits for demolitions of dwellings cannot be issued until the permits for the replacement structures are issued.

Further, Planning Code Section 101.1(e) states, in pertinent part:

"Prior to issuing a permit for any demolition, conversion or change of use, and prior to taking any action which requires a finding of consistency with the Master Plan, the City shall find that the proposed project ...is consistent with the Priority Policies established above. [i.e., in Section 101.1(b)]. For any such permit issued...after January 1, 1988 the City shall also find that the project is consistent with the City's Master [General] Plan."

Therefore, applications to remove dwellings must be accompanied by Section 101.1 ("Proposition M") findings demonstrating, on balance, that the project is in conformity with the Priority Policies and the General Plan.

To determine what level of review is required for the removal of a Residential Unit, review Planning Code Section 317 as well as the appropriate Code section for the particular district, and note that requirements also vary by floor of occupancy (see Article 2 for Residential, Residential-Commercial, Commercial, Industrial, and Production Distribution Repair Districts; Article 7 for Neighborhood Commercial Districts; and Article 8 for Mixed-Use and Downtown Residential Districts).

For Special Use Districts, additional requirements overlay those of the base zoning. See the appropriate Code sections for each Special Use District. In cases where there are overlapping requirements, the more restrictive generally applies.

For those applications where some elements of a project or some sections of the Code may require Conditional Use Authorization, and others require Discretionary Review, the Commission will consider the project in a single Conditional Use case. Please note that the Dwelling Unit Removal Application must be completed and appended to the Conditional Use Authorization Application, if both apply.

For more information or for assistance in determining the required level review or the process for the removal of Residential Units, please contact the Planning Information Center (PIC) at (415) 558-6377, or drop-by in person at 1660 Mission Street, ground floor.

Part 3: Definitions

This section provides definitions that relate to the review of projects that would remove Residential Units.

Applicant: The owner of a property, or an agent for the owner, who has submitted an application, as required by the Building and/or Planning Codes, to remove a Residential Unit. Also called "Project Sponsor."

Conditional Use: Uses or changes of use permitted within individual zoning districts only when specifically so authorized by the Planning Commission under Section 303 of the Planning Code and as regulated elsewhere in the Planning Code.

Conversion of a Dwelling: The removal of cooking facilities in a residential unit, or the change of use (as defined and regulated by the Planning Code) or the change of occupancy (as defined and regulated by the Building Code) of any dwelling unit to a non-residential use. This definition shall not apply to conversions of residential hotel units, which are subject to the Residential Hotel Conversion Ordinance (Chapter 41 of the San Francisco Municipal Code – Ordinance No. 121-90, File No. 113-89-2).

DBI: The San Francisco Department of Building Inspection

Demolition of Residential Buildings: Items listed under sub-sections A, B, and C below apply to non-historic buildings, and shall mean any of the following:

- A. Any work on a Residential Building for which the Department of Building Inspection determines that an application for a demolition permit is required.
- B. A major alteration of a Residential Building that proposes the Removal of more than 50% of the sum of the Front Façade and Rear Façade, and also proposes the Removal of more than 65% of the sum of all exterior walls, measured in lineal feet at the foundation level, or
- C. A major alteration of a Residential Building that proposes the Removal of more than 50% of the Vertical Envelope Elements and more than 50% of the Horizontal Elements of the existing building, as measured in square feet of actual surface area.

D. For residential structures that qualify as historic resources, the demolition definition in Planning Code Section 1005(f) governs, as follows:

(f) For purposes of this Article 10, demolition shall be defined as any one of the following:

- (1) Removal of more than 25 percent of the surface of all external walls facing a public street(s); or*
- (2) Removal of more than 50 percent of all external walls from their function as all external walls; or*
- (3) Removal of more than 25 percent of external walls from function as either external or internal walls; or*
- (4) Removal of more than 75 percent of the building's existing internal structural framework or floor plates unless the City determines that such removal is the only feasible means to meet the standards for seismic load and forces of the latest adopted version of the San Francisco Building Code and the State Historical*

Please see Part 4 of this document for a more detailed explanation of projects that are residential demolitions.

Dwelling Unit: A living space within a structure, which contains cooking facilities and within which a person, or persons reside for 32 days or more at a time. Please note: although live-work units are commercial occupancies, for the purposes Section 317 of the Planning Code, legal non-conforming live-work units are considered residential units but not dwellings.

Façade: An entire exterior wall assembly, including but not limited to all finishes and siding, fenestration, doors, recesses, openings, bays, parapets, sheathing, and framing.

Front Façade: A Façade fronting a right-of-way, or the portion of the Façade most closely complying with that definition, as in the case of a flag lot. Where a lot has more than one frontage on rights-of-way, all such frontages shall be considered Front Facades except where a façade meets the definition of "Rear Façade."

Hazardous: For the purposes of Soundness Reports, all buildings, structures, property, or parts thereof, regulated by the Planning Code, that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, safety, or health of the occupants or the occupants of adjacent properties or the public, are defined as "hazardous."

Horizontal Elements: shall mean all roof areas and all floor plates, except floor plates at or below grade.

HRE and HRER: Historic Resource Evaluation provided by the Sponsor's historic preservation consultant, and Historic Resource Evaluation Response, which is the Department's written evaluation of the HRE, to determine whether a building is an historical resource.

Mandatory Discretionary Review: A hearing before the Planning Commission that is required by Code or by Policy, at which the Commission will determine whether to approve, modify, or disapprove a building permit.

Merger: shall mean the combining of two or more legal Residential Units, resulting in a decrease in the number of Residential Units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even if the number of units is not reduced.

Rear Façade: The Façade facing the part of a lot that most closely complies with the applicable Planning Code rear yard requirements.

Removal: With reference to a wall, roof or floor structure, Removal is its dismantling, or its relocation, or its alteration of the exterior function by construction of a new building element exterior to it. Where a portion of an exterior wall is removed, any remaining wall with a height less than the Building Code requirement for legal head room shall be considered demolished. Where exterior elements of building are removed and replaced for repair or maintenance, in like materials, with no increase in the extent of the element or volume of the building, such replacement shall not be considered Removal for the purposes of this Section. The foregoing does not supersede any requirements for or restrictions on noncomplying structures and their reconstruction as governed by Article 1.7 of this Code.

Removal: With reference to a Residential Unit is its Conversion, Demolition, or Merger.

Residential Building: is any structure containing one or more Residential Units as a principal use, regardless of any other uses present in the building.

Residential Unit: is a legal conforming or non-conforming dwelling unit as defined in Planning Code Section 102.7, or a legal non-conforming Live/Work Unit as defined in Planning Code Section 102.13.

Soundness: is an economic measure of the feasibility of repairing a sub-standard dwelling. It compares an estimate of construction-repair cost called the *Upgrade Cost* to an estimate called the *Replacement Cost*, which is the estimated cost of constructing a new dwelling similar in size and quality to the proposed demolition, in current dollars. See Part 4 of this document, "Demolitions," for technical definitions of these terms.

Soundness Report: is a document, prepared in a format approved by the Planning Department, which analyzes the Soundness of a structure proposed for Demolition. See Part 4 of this document, "Demolitions," for technical guidance.

Vertical Envelope Elements: are all above-grade exterior walls that provide weather and thermal barriers between the interior and exterior of the building, or that provide structural support to other elements of the building envelope.

EXHIBIT "8"



SAN FRANCISCO
PLANNING DEPARTMENT



DATE: February 3, 2014
TO: Honorable Mayor Edwin M. Lee
FROM: DBI Director Tom C. Hui and Planning Director John S. Rahaim
RE: Executive Directive 13-01

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

This memorandum responds to your Executive Directive 13-01: Housing Production and Preservation of Rental Stock. In that Directive, you charged the Directors of the Planning Department and Department of Building Inspection (DBI) to form a working group and to implement three primary tasks: 1) recommend City policies and administrative actions to preserve and promote rental housing in San Francisco; 2) implement a process for Planning Commission Discretionary Review hearings when a loss of housing is proposed; and 3) serve as an advisory body to municipal departments with permitting authority and as a clearinghouse for code compliance checks for buildings that are being withdrawn from the rental market (collectively, the "Executive Directive Tasks" or "Tasks").

To this end, we co-chaired a working group including representatives from the Mayor's Office, Planning Department, DBI, Mayor's Office of Housing, Rent Board, Fire Department, SFPDW, SFPUC, MoD, OCII, City Attorney's Office, Planning Commission, and Building Inspection Commission, as well as representatives from non-City agencies, such as SPUR, Council of Community Housing Organizations, SF Apartment Association, Small Property Owners, and the Housing Rights Committee. The Working Group met three times in public meetings during January, 2014. This document memorializes the Working Group's recommendations.

The Working Group organized the recommendations under each of the three Executive Directive tasks, with a specific focus on short-term tasks that the Departments can implement without legislation or further extensive study. We are committed to implement immediately the responses under each Task. These responses include:

Tasks 1 and 2: Thirteen short-term, administrative changes that will speed review and approval of new housing permits; retain existing, habitable units; and encourage private parties to build more housing, consistent with our General Plan.

Task 3: Two short-term measures will ensure that the Rent Board will be able to inform tenants about their rights to habitable units and that the City routinely checks on and enforces existing compliance as units transition under Rent Ordinance Sections 37.9(a)(8-10, 13).

We understand that in February you will convene a Task Force consisting of housing experts, City departments, tenant and housing advocates, realtors and property owners to work with you and the Board of Supervisors on housing issues. The goal of this group will be to set the stage for 30,000 new and rehabilitated homes by 2020 and to implement the seven pillars of your housing plan. We have

Executive Directive 13-01 Recommendations

additional mid-term and long-term ideas that may either require community vetting and/or legislation to realize. We believe this Task Force would be the appropriate ad hoc body to vet the Working Group's ideas for mid-term and long-term strategies to produce and preserve housing that are not included in this document. We are pleased to offer these ideas to your Task Force, and to present them in more detail at the appropriate time.

Task 1: Recommendations to the Mayor.

Prior to a final decision on implementing any of the measures listed below, to the degree that is required, appropriate environmental review as required by CEQA would be undertaken.

There are general process-improvement changes Planning and DBI could make to facilitate the production of affordable units and the retention of existing units. These changes include the following:

1. **Priority Processing.** Revise the Planning Director's Bulletin Number Two to prioritize 100% affordable housing projects, followed by projects with at least 20% on-site or 30% off-site affordable housing, as the Planning Department's highest priority. Market-rate housing projects will be prioritized based on how the Project intends to satisfy its inclusionary affordable housing obligation. Priority will be based on the project's proportion of affordable units produced – either on-site or off-site. The Planning Department will revise the *Affidavit for Compliance with the Inclusionary Affordable Housing Program* to indicate that if an affordable housing project is seeking priority processing, the *Affidavit for Compliance* must be completed and submitted in conjunction with the filing of the Environmental Evaluation Application, entitlement, or Building Permit Application (whichever is filed first).

Also, revise administrative policies for priority project review currently contained in DBI's Administrative Bulletin, AB-004, Priority Permit Processing Guidelines, in a similar fashion. Assist other City agencies in preparing administrative policies that prioritize affordable housing, if no such policies currently exist.

2. **Ombudsman for HOPE SF and Affordable Housing Projects.** Assign one primary staff person each in Planning and DBI to facilitate the entitlement and plan-check process for HOPE SF and affordable housing projects.
3. **Affordable Housing Policies and Procedures.** Establish inter-agency MOU's relating to the review and approval process for affordable housing projects, including internal agency policies and procedures to implement the goals and objectives of Mayor's ED 13-01.
4. **Encourage density.** Ask the Planning Commission to adopt a policy that encourages developers to maximize their permitted density when constructing major alterations or new construction projects.
5. **Training/Public Information.** Create informational bulletins and/or training sessions relating to the City's permitting process for housing projects.
6. **Justify Removal of Illegal Units.** If a property owner seeks to remove an illegal dwelling unit, require the submittal of findings that outline why they are removing, rather than legalizing, the dwelling-unit. These findings would be considered by the Planning Commission at a Mandatory Discretionary Review Hearing (see Task 2).

Executive Directive 13-01 Recommendations

7. **Housing Element EIR.** Prioritize and support the Housing Element EIR so that the Planning Department can rely on it for housing initiatives.
8. **Concurrent Review.** Ensure that City agencies (Planning, DPW, MoD, DBI, Fire) review applications simultaneously for housing projects, when appropriate. For 100% affordable housing projects, and projects with at least 20% on-site or 30% off-site affordable housing, require pre-application meetings with all relevant City agencies before permits are filed, and establish a requirement for concurrent review for all reviewing agencies. Concurrent review should occur when projects are well-defined and unlikely to substantially change in such a way that would compromise the efficiencies gained by concurrent review. The Departments may consider offering a fee waiver for pre-applications meetings for 100% affordable housing projects if approved by the Board of Supervisors.
9. **Improve Tracking and Transparency of 100% Affordable Projects:** Implement a system to identify pipeline projects that are 100% affordable and implement a publically-accessible tracking system with an up-to-date status of all such projects. When housing projects are approved, an on-line tracking system should indicate the number of affordable units and market rate units approved for construction, and confirm when CFCs/TCOs have been issued.
10. **Agency Coordination on Affordable Housing Projects.** Interagency coordination – including coordination of design review – is of paramount importance for affordable housing projects. Key projects such as Mother Brown’s Emergency Shelter require efficient, timely cooperation from not only the permitting agencies but also asset-holding agencies such as the School District and the Human Services Agency. Those responding to agency comments and corrections also must act within agency-set response timelines/deadlines.
11. **Expedite Hiring of City Staff who Review Housing Permits.** The City’s hiring process is lengthy. Permitting agencies can commit to quick filling of positions but need the assistance of other agencies such as the Department of Human Resources to hire in an efficient manner.
12. **Accountability.** Create performance standards for recommendations that will be implemented as a result of this Executive Directive.

Task 2: Discretionary Review for Loss of Housing Units.

The Working Group has identified two implementation measures for Task 2.

1. **DBI Housing Checklist.** DBI will create a new housing checklist for building permit applications connected to buildings larger than two units. Should any of the following occur in the building, the permit may not be approved over-the-counter and shall instead be referred to the Planning Department to be processed as a Mandatory Discretionary Review:
 - a. The work will result in the removal or loss of a housing unit, legal or otherwise.
 - b. The work will result in the permanent displacement of any tenant from their housing unit, legal or otherwise.
2. **Mandatory Discretionary Review for the loss of Dwelling Units.** For properties with more than two dwelling units, the Planning Department will initiate Discretionary Review for the loss of any dwelling units, legal or otherwise. For building permits to remove an unpermitted unit where there is a feasible path to legalize the unit, the Department will recommend that

Executive Directive 13-01 Recommendations

the current housing affordability crises creates an “exceptional and extraordinary” circumstance such that the Commission should deny the permit and preserve the unit. For building permits where there is no feasible path to legalize the unit, the Department will place the Discretionary Review on the consent calendar with a recommendation to approve the permit. The Planning Department will work with DBI and with the City Attorney’s Office (and other relevant agencies, including the Fire Department) to ensure this policy addresses possible life-safety issues on the properties.

Task 3: Planning and Building Approvals & Notification.

The Working Group has identified two implementation measures for Task 3.

1. The Department of Building Inspection and Planning Department will review the Notices received from the Rent Board under Task 3 and identify any properties subject to existing administrative code enforcement actions by either Department. The Departments will update the records on those existing violations and, where appropriate, initiate interdepartmental inspections in order to cure the violations.
2. The Rent Board will include information on applicable City Codes designed to ensure the habitability of residential units and each Departments’ code enforcement process in the tenant information packet currently provided to tenants affected by a Notice of Intent to Withdraw units from the residential market under Rent Ordinance Section 37.9A.

We look forward to continue to work with you on ways to encourage the production of housing in the City; especially low and moderate income housing. We are available to discuss our proposal with you in detail and look forward to implementing these concepts as quickly as possible.

EXHIBIT "9"

1 [Planning, Building, Administrative, and Subdivision Codes - Legalization of Dwelling Units
2 Installed Without a Permit]

3 **Ordinance amending the Planning and Building Codes to provide a process for**
4 **granting legal status to existing dwelling units constructed without the required**
5 **permits, temporarily suspending the code enforcement process for units in the process**
6 **of receiving legal status, and prohibiting units from being legalized under the**
7 **provisions of this Ordinance if there have been no-fault evictions; amending the**
8 **Administrative Code to prohibit the costs of legalization from being passed through to**
9 **the tenant; amending the Subdivision Code to prohibit legalized units from being**
10 **subdivided and separately sold; affirming the Planning Department's California**
11 **Environmental Quality Act determination; making findings of consistency with the**
12 **General Plan, and the priority policies of Planning Code, Section 101.1; and directing**
13 **the Clerk of the Board of Supervisors to submit this Ordinance to the California**
14 **Department of Housing and Community Development in accordance with California**
15 **Government Code, Section 65852.2(h).**

16 **NOTE: Unchanged Code text and uncodified text are in plain Arial font.**
17 **Additions to Codes are in single-underline italics Times New Roman font.**
18 **Deletions to Codes are in ~~strikethrough italics Times New Roman font.~~**
19 **Board amendment additions are in double-underlined Arial font.**
20 **Board amendment deletions are in ~~strikethrough Arial font.~~**
21 **Asterisks (* * * *) indicate the omission of unchanged Code**
22 **subsections or parts of tables.**

21 Be it ordained by the People of the City and County of San Francisco:

22 Section 1. General and Environmental Findings.

23 (a) This ordinance is adopted under the California Second Unit Law (Government Code
24 Section 65852.2).

1 (b) The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). The Board of Supervisors hereby affirms this determination.
4 Said determination is on file with the Clerk of the Board of Supervisors in File No. 131148 and
5 is incorporated herein by reference

6 (c) Pursuant to Planning Code Section 302, the Board of Supervisors finds that these
7 Planning Code amendments will serve the public necessity, convenience, and welfare for the
8 reasons set forth in this ordinance and in Planning Commission Resolution No. 19101. A
9 copy of Planning Commission Resolution No. 19101 is on file with the Clerk of the Board of
10 Supervisors in File No. 131148 and is incorporated herein by reference.

11 (d) On March 13, 2014, in Resolution No. 19101, the Planning Commission adopted
12 findings that the actions contemplated in this ordinance are consistent, on balance, with the
13 City's General Plan and the eight priority policies of Planning Code Section 101.1. The Board
14 of Supervisors adopts these findings as its own.

15 (e) Nothing in this ordinance is intended to change the personal obligations of property
16 owners under existing private agreements.

17
18 Section 2. The Planning Code is hereby amended by adding Section 207.3, to read as
19 follows:

20 **SEC. 207.3. AUTHORIZATION OF DWELLING UNITS CONSTRUCTED WITHOUT A PERMIT**
21 **IN AN EXISTING BUILDING ZONED FOR RESIDENTIAL USE.**

22 Notwithstanding Section 207.2 or any other provision of this Code, certain dwelling units that
23 were constructed without benefit of permit in an existing residential building or in an ancillary
24 structure located on the same lot may be granted legal status subject to the conditions and procedures
25

1 set forth below. For purposes of this Section 207.3, a dwelling unit shall not include single room
2 occupancy units.

3 **(a) Purpose and Findings.**

4 (1) In California Government Code Section 65852.150, the Legislature declared that
5 second units are a valuable form of housing in California because they "provide housing for family
6 members, students, the elderly, in-home health care providers, the disabled, and others, at below
7 market prices within existing neighborhoods" and that "homeowners who create second units benefit
8 from added income, and an increased sense of security."

9 (2) San Francisco has long had a housing shortage, especially of affordable housing.
10 The housing market continues to be tight and housing costs are beyond the reach of many households.
11 Policy 1.5 of the City's 2009 Housing Element states that secondary units in existing residential
12 buildings represents a simple and cost-effective method of expanding the City's housing supply.

13 (3) The City has no definitive information on the number of dwelling units that have
14 been added to existing residential buildings without the benefit of a permit, but unofficial estimates
15 indicate that as many as 30,000 to 40,000 such dwelling units exist as of 2013. Often these illegal units
16 have been built in the basements, garages, and attics of existing buildings or in rear-yard structures.
17 While many of these units may not meet existing Planning Code requirements, they constitute a major
18 supply of San Francisco's affordable housing units, often meet life and safety standards, and may
19 require only exceptions from density, open space, and other Planning Code requirements in order to
20 become legal.

21 (4) Providing a mechanism to grant legal status to an illegally constructed dwelling
22 unit in an existing building zoned for residential use furthers several public policy objectives. By
23 encouraging the legalization of these units, the City can add legitimate units to the City's supply of
24 affordable housing, ensure that these units are safe and habitable, and properly include these units
25 when calculating the City's existing housing supply.

1 **(b) Scope.**

2 **(1) Except as provided in subsection (2) below, this Section 207.3 shall apply to an**
3 **existing building or an ancillary structure on the same lot, that is located in a district where residential**
4 **use is principally permitted, and that has one or more dwelling units that were constructed prior to**
5 **January 1, 2013 without benefit of permit and used as residential space. One of the unauthorized**
6 **dwelling units per lot meeting this threshold requirement may be granted legal status under this**
7 **Section, regardless of the density limits of the zoning district.**

8 **(2) No-fault eviction. The Department shall not approve an application for legalization**
9 **if any tenant has been evicted from the unit pursuant to Administrative Code Sections 37.9(a)(9)**
10 **through (a)(14) where the tenant was served with the notice of eviction after March 13, 2014 if the**
11 **notice was served within ten (10) years prior to filing the application for legalization. Additionally, the**
12 **Department shall not approve an application for legalization of the unit if any tenant has been evicted**
13 **pursuant to Administrative Code Section 37.9(a)(8) where the tenant was served with a notice of**
14 **eviction after March 13, 2014 if the notice was served within five (5) years prior to filing the**
15 **application for legalization. The Department shall verify with the Rent Board that no no-fault eviction**
16 **had been filed. This subsection (b)(2) shall not apply if the tenant was evicted under Administrative**
17 **Code Section 37.9(a)(11) and the applicant(s) have either: (A) certified that the original tenant**
18 **reoccupied the unit after the temporary eviction or (B) submitted to the Department a declaration from**
19 **the property owner or the tenant certifying that the property owner or the Rent Board has notified the**
20 **tenant of the tenant's right to reoccupy the unit after the temporary eviction and the tenant chose not to**
21 **reoccupy it.**

22 **(c) Notices of Violation. If the Director or Zoning Administrator has issued a notice of**
23 **violation for the unauthorized unit for which legalization is being sought and all violations would be**
24 **corrected by legalization of the unit, the Director or Zoning Administrator shall:**

1 (1) temporarily suspend the notice of violation and enforcement action upon initiation
2 of the legalization process by the owner or owner's authorized agent and acceptance of the required
3 applications by the City; and

4 (2) rescind the notice of violation and remove any related liens on the property if
5 legalization of the unit is approved within one year of initiation of the process set forth in subsection
6 (d).

7 (d) Legalization Application. The Department shall approve an application to legalize an
8 existing dwelling unit if the unit complies with Planning Code requirements as specified in subsection
9 (e) below and with other City codes as specified in subsection (f) below, if the Rent Board verifies that
10 no no-fault eviction was filed pursuant to subsection (b)(2) above, and if the permit application is
11 completed at and plans approved by the Department of Building Inspection. In compliance with the
12 State's Second Unit Law (California Government Code 65852.2), the Department shall exercise
13 ministerial approval of the application if the dwelling unit is in a single-family home and thus within
14 the scope of the State's Second Unit Law.

15 **(e) Compliance with Planning Code Requirements; Exceptions.**

16 (1) A dwelling unit authorized under this Section 207.3 must satisfy all applicable
17 requirements of this Code except for the rear yard requirements set forth in Section 134, the
18 usable open space requirements set forth in Section 135, and the light and air requirements set forth in
19 Section 140, and except as otherwise provided in this Section 207.3.

20 (2) A dwelling unit in an ancillary structure on the same lot as the single family or
21 multi family building shall not require a variance from the rear yard requirements of Section
22 134 in order to be granted legal status under this Section 207.3.

23 (23) One such dwelling unit on the lot is allowed to exceed the permitted density
24 authorized for that zoning district provided that a residential use is principally permitted in that zoning
25 district. Authorization of an additional unit over the density limits will not change the official zoning

1 classification of the lot; provided, however, that the additional dwelling unit shall count towards the
2 density limits if the parcel is under its density limit capacity.

3 ~~(3) 4) The reduction of parking requirements shall be permitted without requiring~~
4 ~~compliance with Section 161(j) of this Code. Off-street parking requirements may be reduced~~
5 ~~to the extent necessary to retain dwelling units authorized under this Section 207.3, without~~
6 ~~requiring compliance with Sections 305, 161(j) or 307(g) or (i) of this Code.~~

7 (f) Compliance With Other City Codes. A dwelling unit authorized under this Section 207.3
8 must meet all applicable provisions of other City codes other than the provisions of the Planning Code
9 cited in subsection (e). Any Code equivalencies authorized under the Building Code, Electrical Code,
10 Plumbing Code, Mechanical Code, Fire Code, or other applicable Code shall be considered by the
11 relevant agency.

12 Legalization of a dwelling unit under this Section 207.3 shall not affect whether the dwelling
13 unit is subject to the Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the
14 Administrative Code). A dwelling unit that was subject to the Residential Rent Stabilization and
15 Arbitration Ordinance prior to legalization under this Section 207.3 shall remain subject to the
16 Residential Rent Stabilization and Arbitration Ordinance after legalization. Landlords shall pay
17 relocation assistance to tenants who are temporarily displaced due to work required for dwelling unit
18 legalization pursuant to the provisions in Section 37.9C of the Residential Rent Stabilization and
19 Arbitration Ordinance or California Civil Code Section 1947.9 for displacements of less than 20 days.

20 (g) Additional Dwelling Unit Considered a Lawful Nonconforming Use. Any dwelling unit
21 authorized under this Section 207.3 shall be considered a lawful nonconforming use subject to the
22 provisions of Planning Code Sections 180 through 189; provided, however, that expansion of the
23 additional dwelling unit within the building envelope shall be permitted as part of the legalization
24 process.

1 (h) Subdivision and Lot Splits Prohibited. Notwithstanding the provisions of Article 9 of the
2 Subdivision Code, a lot with an additional unit authorized under this Section 207.3 may not be
3 subdivided in a manner that would allow for the additional unit to be sold or separately financed
4 pursuant to any condominium plan, housing cooperative, or similar form of separate ownership.

5 (i) Merging Secondary and Original Units. If the property owner wants to merge the
6 secondary and original units, the owner may request merger pursuant to Section 317 of this Code. If
7 the Planning Department or Commission approves the merger, the secondary unit will be removed
8 from the Planning Department's Master List and the Assessor-Recorder's records after the final
9 certificate of occupancy is obtained and the merger has occurred.

10 (j) Reports. Six months from the effective date of this Section 207.3 and every six months for
11 the first three years after the effective date, the Zoning Administrator and the Director of the
12 Department of Building Inspection shall issue a joint report on the effectiveness of the additional
13 dwelling unit authorization program. After three years, the report will be included in the City's Annual
14 Housing Inventory. The report shall, at a minimum, state the number of screening forms and building
15 permit applications that have been filed pursuant to this Section 207.3. For the first three years, copies
16 of these reports shall be submitted to the Clerk of the Board of Supervisors, the Mayor, and the
17 Controller. Upon receiving the reports one year and two years after the effective date, the
18 Clerk of the Board of Supervisors shall schedule a public hearing for each report on the
19 agenda of the appropriate Board of Supervisors committee to consider the effectiveness of
20 the program.

21 (k) Master List of Additional Dwelling Units Approved. The Planning Department shall
22 create and maintain a master list of dwelling units approved pursuant to the provisions of this Section
23 207.3 and corresponding property addresses for use by the San Francisco Rent Stabilization and
24 Arbitration Board, Tax Assessor, and other interested City departments, boards or commissions.

1 Section 3. The Planning Code is hereby amended by revising Section 311, to read as
2 follows:

3 **SEC. 311. RESIDENTIAL PERMIT REVIEW PROCEDURES FOR RH, RM, AND RTO**
4 **DISTRICTS.**

5 * * * *

6 (b) **Applicability.** Except as indicated herein, all building permit applications for
7 demolition and/or new construction, and/or alteration of residential buildings in RH, RM, and
8 RTO Districts shall be subject to the notification and review procedures required by this
9 Section. Subsection 311(e) regarding demolition permits and approval of replacement
10 structures shall apply to all R Districts.

11 (1) For the purposes of this Section, an alteration in RH and RM Districts shall be
12 defined as any change in use ~~or change in the number of dwelling units of a residential building,~~
13 removal of more than 75 percent of a residential building's existing interior wall framing or the
14 removal of more than 75 percent of the area of the existing framing, or an increase to the
15 exterior dimensions of a residential building except those features listed in Section 136(c)(1)
16 through 136(c)(24) and 136(c)(26).

17 (2) For the purposes of this Section, an alteration in RTO Districts shall be defined as a
18 change of use described in Section 312(c) ~~or a change in the number of dwelling units of a~~
19 ~~building,~~ removal of more than 75 percent of a building's existing interior wall framing or the
20 removal of more than 75 percent of the existing framing, or an increase to the exterior
21 dimensions of a building except for those features listed in Section 136(c)(1) through
22 136(c)(24) and 136(c)(26).

23 * * * *

24 Section 4. The Building Code is hereby amended by adding Section 106A.3.1.3, to
25 read as follows:

Supervisors Chiu, Wiener, Avalos, Mar, Breed, and Cohen
BOARD OF SUPERVISORS

1 106A.3.1.3. Authorization of Dwelling Units Installed Without a Permit.

2 (a) Screening required. Prior to filing a permit application to legalize an existing unauthorized
3 dwelling unit under Section 207.3 of the Planning Code, the owner of the building or the owner's
4 authorized agent shall submit the following information to the Department for the purpose of
5 determining whether the unauthorized dwelling unit can comply with the requirements of this Code or
6 other codes administered and enforced by the Department, or whether equivalencies from Code
7 requirements can be obtained:

8 (1) a Dwelling Unit Legalization Checklist form, created by the Department, together
9 with floor plans for the entire building and a plan showing the location of all structures on the subject
10 lot;

11 (2) evidence from the San Francisco Water Department, telephone, gas or electric
12 records, written lease agreements, or other evidence acceptable to the Department showing that the
13 dwelling unit for which approval is sought existed prior to January 1, 2013;

14 (3) an assessment prepared by a licensed contractor, architect, or engineer that outlines
15 a plan to comply with all applicable requirements of the Building Code and other Codes administered
16 and enforced by the Department; and

17 (4) other information as the Building Official shall require.

18 (b) Imminent and Substantial Hazard. If the Department identifies an imminent and
19 substantial hazard as described in Section 102A.16 of this Code during the screening process, the
20 Department shall inform the applicant of the appropriate remedial actions and notifications to tenants.
21 The Department shall not pursue remedial code enforcement actions and notifications to
22 tenants based solely on information provided by the applicant during the screening process,
23 unless the Department identifies an imminent and substantial hazard or the applicant
24 consents.

1 (c) Application Process; Required Permit(s). After completion of the screening process
2 required by subsection (a.) a property owner or the owner's authorized agent may file applications
3 with the Department, Fire Department, or other City department for any building or other permits that
4 are require in order to legalize one existing unauthorized dwelling unit on the property. The
5 application(s) shall refer explicitly to this Section 106A.3.1.3 and Section 207.3 of the Planning Code.
6 If there is more than one existing unauthorized unit on the site, the owner or agent shall designate the
7 unauthorized unit for which legalization is sought. The approval, issuance, expiration, or cancellation
8 of an application filed pursuant to this Section 106A.3.1.3 and any resulting permits shall be in
9 accordance with the provisions of all City codes, except as provided below. Cancellation or
10 disapproval of the application or any resulting permit shall terminate all rights under this Section
11 created by the application. A dwelling unit is not lawful unless and until all necessary approvals have
12 been obtained.

13 (d) Notices of Violation. If the Department has issued a notice of violation for the unauthorized
14 unit for which legalization is being sought and all violations would be corrected by legalization of the
15 unit, the Director shall:

16 (1) temporarily suspend the notice of violation and enforcement action upon initiation
17 of the process set forth in subsection (a) by the owner or owner's authorized agent and acceptance of
18 the required applications by the City; and

19 (2) rescind the notice of violation and remove any related liens on the property if
20 legalization of the unit is approved within one year of initiation of the process set forth in subsection
21 (a).

22 (e) Funding Resources Information. The Department shall provide information about the
23 Mayor's Office of Housing and Community Development Code Enforcement Rehabilitation Fund and
24 other potential funding sources that may be available for code compliance.

1 Section 5. The Administrative Code is hereby amended by revising 37.7, to read as
2 follows:

3 **SEC. 37.7. CERTIFICATION OF RENT INCREASES FOR CAPITAL IMPROVEMENTS,**
4 **REHABILITATION WORK, ENERGY CONSERVATION IMPROVEMENTS, AND**
5 **RENEWABLE ENERGY IMPROVEMENTS.**

6 (a) **Authority.** In accordance with such guidelines as the Board shall establish, the
7 Board and designated Administrative Law Judges shall have the authority to conduct hearings
8 in order to certify rental increases to the extent necessary to amortize the cost of capital
9 improvements, rehabilitations, energy conservation improvements, and renewable energy
10 improvements. Costs determined to be attributable to such work and improvements shall be
11 amortized over a period which is fair and reasonable for the type and the extent of the work
12 and improvements, and which will provide an incentive to landlords to maintain, improve and
13 renovate their properties while at the same time protecting tenants from excessive rent
14 increases. Costs attributable to routine repair and maintenance, or any costs attributable to
15 legalizing an existing dwelling unit under Section 207.3 of the Planning Code, shall not be certified.

16 * * * *

17 Section 6. The Subdivision Code is hereby amended by revising Section 1359 and
18 adding Section 1380.1, to read as follows:

19 **SEC. 1359. PARCEL MAP.**

20 (a) The requirements of Subsection (c) of Section 1356 of this Code shall apply to
21 Parcel Maps.

22 * * * *

23 (c) In the case of Conversions where a Tentative Map is not required, the
24 requirements of Section 1314 and the requirements of Article 9 on Conversions shall apply,
25 provided that hearings as provided in Sections 1313 and 1332 shall not be required, and

1 provided further that Article 9 shall not be applied to two-unit buildings where both units are
2 owner-occupied for one year prior to the application for Conversion. This exemption for owner-
3 occupied two unit buildings shall not apply to units legalized pursuant to Section 207.3 of the Planning
4 Code.

5 * * * *

6 **SEC. 1380.1. UNITS LEGALIZED PURSUANT TO PLANNING CODE SECTION 207.3.**

7 Notwithstanding any other provisions of this Code, a dwelling unit constructed without benefit
8 of permit and legalized pursuant to the provisions of Section 207.3 of the Planning Code may not be
9 subdivided in a manner that would allow for the unit to be sold or separately financed pursuant to any
10 condominium plan, housing cooperative, or similar form of separate ownership.

11
12 Section 7. Equivalencies. The Director of the Department of Building Inspection and the
13 Fire Marshal shall determine whether equivalencies from the provisions of the San Francisco
14 Building Code can be developed in order to facilitate authorization of existing dwelling units
15 under Planning Code Section 207.3, shall prepare one or more Administrative Bulletins to
16 define and implement the code equivalencies, and shall coordinate with the Zoning
17 Administrator in the development of any joint Administrative Bulletins that the Planning and
18 Building Departments determine are necessary or desirable in order to implement the policy
19 and provisions of this ordinance. Any Administrative Bulletins developed jointly or by either
20 Department shall be completed within one year of the effective date of this ordinance.

21
22 Section 8. Notice. Within one month from the effective date of this ordinance, the Clerk
23 of the Board of Supervisors shall cause to be published at least once in a newspaper of
24 general circulation notice that the program for authorization of existing dwelling units under
25 Planning Code Section 207.3 is in effect. The Tax Collector shall mail notice to property

1 owners with the first property tax bill sent after the effective date of this ordinance. The notices
2 by the Clerk of the Board and the Tax Collector shall advise property owners of the provisions
3 of Section 207.3. The Zoning Administrator and the Director of the Department of Building
4 Inspection shall supplement the aforementioned notices with any additional notice they deem
5 necessary to insure that the public receives adequate notice of the provisions of said Section
6 207.3.

7
8 Section 9. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 10. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 Section 11. Severability. If any section, subsection, sentence, clause, phrase, or word
21 of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any
22 court of competent jurisdiction, such decision shall not affect the validity of the remaining
23 portions of the ordinance. The Board of Supervisors hereby declares that it would have
24 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and
25

1 word not declared invalid or unconstitutional without regard to whether any other portion of
2 this ordinance would be subsequently declared invalid or unconstitutional.

3
4 Section 12. Conflict with Federal or State Law. Nothing in this ordinance shall be
5 interpreted or applied so as to create any requirement, power, or duty in conflict with any
6 federal or state law.

7
8 Section 13. Directions to Clerk. The Clerk of the Board of Supervisors is hereby
9 directed to submit a copy of this ordinance to the California Department of Housing and
10 Community Development within 60 days following adoption pursuant to Section 65852.2(h) of
11 the California Government Code.

12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 JUDITH A. BOYAJIAN
Deputy City Attorney

17 n:\legana\as2013\1300490\00915861.doc



City and County of San Francisco

Tails
Ordinance

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 131148

Date Passed: April 08, 2014

Ordinance amending the Planning and Building Codes to provide a process for granting legal status to existing dwelling units constructed without the required permits, temporarily suspending the code enforcement process for units in the process of receiving legal status, and prohibiting units from being legalized under the provisions of this Ordinance if there have been no-fault evictions; amending the Administrative Code to prohibit the costs of legalization from being passed through to the tenant; amending the Subdivision Code to prohibit legalized units from being subdivided and separately sold; affirming the Planning Department's California Environmental Quality Act determination; making findings of consistency with the General Plan, and the priority policies of Planning Code, Section 101.1; and directing the Clerk of the Board of Supervisors to submit this Ordinance to the California Department of Housing and Community Development in accordance with California Government Code, Section 65852.2(h).

March 24, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

March 24, 2014 Land Use and Economic Development Committee - REFERRED WITHOUT RECOMMENDATION AS AMENDED

April 01, 2014 Board of Supervisors - AMENDED

Ayes: 10 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Tang, Wiener and Yee

Excused: 1 - Mar

April 01, 2014 Board of Supervisors - NOT AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 5 - Breed, Farrell, Tang, Wiener and Yee

Noes: 5 - Avalos, Campos, Chiu, Cohen and Kim

Excused: 1 - Mar

April 01, 2014 Board of Supervisors - AMENDED

Ayes: 10 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Tang, Wiener and Yee

Excused: 1 - Mar

April 01, 2014 Board of Supervisors - AMENDED

Ayes: 10 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Tang, Wiener and Yee

Excused: 1 - Mar

April 01, 2014 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 8 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim and Wiener

Noes: 2 - Tang and Yee

Excused: 1 - Mar

April 08, 2014 Board of Supervisors - FINALLY PASSED

Ayes: 9 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar and Wiener

Noes: 2 - Tang and Yee

File No. 131148

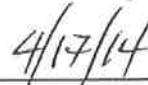
I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
4/8/2014 by the Board of Supervisors of the
City and County of San Francisco.



Angela Calvillo
Clerk of the Board



Mayor



Date Approved