Date Filed: BOARD OF APPEALS SEP 22 2014

~~APPEAL #~~ JR

City & County of San Francisco
BOARD OF APPEALS

JURISDICTION REQUEST

Date of request: **September 22, 2014.**

John Clifford & Charlene Attard, (requestor(s)) hereby seeks a new appeal period for the following departmental action: **ISSUANCE** of **Alteration Permit BPA NO. 2013/06/25/0447** by **Department of Building Inspection**, issued to: **Maneesh Jain & Nadia Ramsaroop,** for property at **157 Randall Street**, that was issued or became effective on **April 25, 2014**, and for which the appeal period ended at close of business on **May 12, 2014.**

Your **Jurisdiction Request** will be considered by the Board of Appeals on Wednesday, **October 08, 2014** at **5:00 p.m. City Hall, Room 416**, One Dr. Carlton B. Goodlett Place.

Pursuant to Article V, § 10 of the Board Rules, the **RESPONSE** to the written request for jurisdiction must be submitted by the permit, variance, or determination holder(s) and/or department(s) no later than **10 days from the date of filing, on or before October 02, 2014**, and must not exceed 6 pages in length (double-spaced), with unlimited exhibits. An original and 10 copies shall be submitted to the Board office with additional copies delivered to the opposing parties the same day.

You or your representative **MUST** be present at the hearing. It is the general practice of the Board that only up to three minutes of testimony from the requestor, the permit holder, and the department(s) will be allowed. Your testimony should focus on the reason(s) you did not file on time, and why the Board should allow a late filing in your situation.

Based upon the evidence submitted and the testimony, the Board will make a decision to either grant or deny your Jurisdiction Request. Four votes are necessary to grant jurisdiction. If your request is denied, an appeal may not be filed and the decision of the department(s) is final. If your request is granted, **a new five (5) day appeal period shall be created which ends on the following Monday**, and an appeal may be filed during this time.

Please Print:

Name: Charlene Attard & John Clifford

Signature of Requestor or Agent

1650 Mission Street, Suite 304 • San Francisco, CA 94103
Phone: 415-575-6880 • Fax: 415-575-6885 • Email: boardofappeals@sfgov.org
www.sfgov.org/boa

September 22, 2014

BOARD OF APPEALS
SEP 22 2014
APPEAL #

Dear President Lazarus and Commissioners:

Please grant the Jurisdiction Request for the following reasons:

Our neighbors at 157 Randall St. erected the west property wall of their addition at the beginning of August, 2014, and we were shocked to see the mass of the giant wall bordering our house and outdoor space. The impact of this wall is overwhelming as it extends over 13 feet higher than our deck, while extending 15 feet to the front and 19 feet to the rear of our fourth floor living space and borders our deck area. This wall is to our west and has a pronounced negative effect on light throughout our house, including kitchen, rear bedroom and the entire top floor. If we had known the mass and Impact of this wall, we would have objected immediately. It was impossible for us to realize the mass and impact of the vertical addition at 157 Randall St. with the information that was given to us. We met with the project architect (the permit holders representative) at our home regarding the proposed addition, where the height of the project was misrepresented. When asked how high the wall would be compared to our house, the height referenced by the architect was approximately 3 feet lower than the wall that is now erected. This, combined with my knowledge of the neighborhood guidelines and building code restrictions that were enforced during my home addition project, that was completed in December 2009, and the inadequate drawings sent in the 311 Notification gave a completely different picture of the vertical addition at 157 Randall St.

Michael Smith, the planner for both projects, 153 Randall,(completed in December, 2009) and 157 Randall St, the subject property, performed a site visit on September 19th. During his visit, he admitted that the 311 drawings could have been more clear and some changes probably would have

been made if he had seen the project site during the planning period. He could not answer our question regarding why our house required a much greater set-back from the front property line. His only explanation was that he was trying to keep it less visible from the street. Nothing in the code has changed since 2009. Because of the inconsistency in following the planning code with both projects, the city inadvertently caused us to file for appeal late. We thought that both projects would be subject to the same planning rules, which they clearly were not. This, along with the fact that the neighbor misrepresented the project and the confusing drawings, caused us to file for an appeal late. We had no idea that the wall would be so massive, keeping in mind that our 4th floor was required to be set back so much further. It all became apparent after the wall went up on Aug.1.

Another compelling reason for this request is that the permitted plans do not allow for weatherproofing between the two properties without encroaching into our property at 153 Randall St., by 1-2 feet. Encroachment is a state law violation (Please see exhibit 3).

We have asked numerous times for our neighbor to provide a waterproofing plan that does not involve encroachment over the copper ledge/ bench area on our front deck. Mr Jain and his contractor are trying to back us into a corner and force us to agree to the encroachment. This is against the law. For many reasons we will not agree to the encroachment. The Planning Dept. should not have permitted this project without a waterproofing plan or with a plan that involves encroachment . I spoke To Patrick O'Riordan, the head or the Building Dept. and asked hypothetically, if a property needs weatherproofing, should the waterproofing plan be on the approved plans. He said that some properties don't need it but if it is needed , that it should be on the plans and if the plan involves encroachment, it would raise a red flag and the encroached neighbor would be notified (please see exhibit 2-copy of email in confirming conversation with Patrick O'Riordan). In a reply email from

Patrick O'Riordan, he states " I have discussed your concerns with Acting Senior Building Inspector Donald Duffy. The reality is that your adjacent neighbor is planning on installing a copper flashing between your building and theirs". In actually, now that the wall is erected, it is too close (less than ½ inch) to put copper flashing between the buildings. If the "copper flashing between the buildings" is in the permitted plans, clearly there was an error in the plan as this method is impossible with the space left between the buildings or the project is not being built in accordance with the plans. This encroachment is against the law. If we were notified of this before the permit was issued, which we should have been, we would have never agreed and would have appealed immediately. There is a state law that prohibits encroachment. It is my understanding that state law supersedes any city ordinance. The project has to go back to the planning department to provide a plan that will allow the subject project and the adjacent house to be waterproofed without encroachment.

Thank you for your consideration. We are just asking for the opportunity to review the project with all of the pertinent information needed and to have the opportunity to protect our property from encroachment.

Thank you,

John Clifford Charlene Attard

Permits, Complaints and Boiler PTO Inquiry

Exhibit 1 (2 pages)

Permit Details Report

Report Date:	**8/26/2014 2:48:03 PM**
Application Number:	201306250447
Form Number:	3
Address(es):	6663 / 031 / 0 157 RANDALL ST
Description:	28 SQ FT HORIZONTAL ADDITION TO 3RD FL W/ RAISE ROOF 8'10". INTERIOR REMODEL OF KITCHEN & MISC IMPROVEMENTS TO FINISHES THROUGHOUT BUILDING. CREATE VISABLE DECK ON TOP OF (E) GARAGE AT 2ND FL. AND 3RD FLOOR REAR DECK.
Cost:	$286,622.00
Occupancy Code:	R-3
Building Use:	27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
6/25/2013	TRIAGE	
6/25/2013	FILING	
6/25/2013	FILED	
4/25/2014	APPROVED	
4/25/2014	ISSUED	

Contact Details:

Contractor Details:

License Number:	319153
Name:	HENRY KARNILOWICZ
Company Name:	OCCIDENTAL EXPRESS
Address:	1019 HOWARD ST * SAN FRANCISCO CA 94103-2806
Phone:	4156217533

Addenda Details:

Description: SITE

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CPB	6/27/13	6/27/13			6/27/13	CHAN AMARIS	
2	CP-ZOC	6/27/13	9/11/13			3/10/14	SMITH MICHAEL	
3	CP-NP	1/24/14	1/31/14			3/2/14	SMITH MICHAEL	Mailed 311 Notice 1/31/14; Expired 3/2/14 (Vlad)
4	BLDG	3/12/14	3/24/14	4/3/14		4/4/14	WONG IRENE	
5	DPW-BSM	3/26/14	3/28/14			3/28/14	CY LIONGTIAN	Approved Site Permit only! 3-28-14 DPW/BSM shall not release construction addenda until complete application and photos for Inspection Conformity are submitted and approved Please submit application with all Inspection Conformity requirements at 1155 Market Street, 3rd floor, and Tel. No. (415)-554-5810. Your construction addenda will be on hold, until all necessary DPW/BSM permits are completed, or the receiving BSM plan checker-recommending sign off
6	SFPUC	4/4/14	4/9/14			4/9/14	ARRIOLA LAURA	Permit has been assessed a Capacity Charge. 50% paid with permit fees; balance due withir 12 months of permit issued date. See Invoice attached to application. Route to PPC - 04/09/14.
7	CP-ZOC	4/10/14	4/22/14			4/22/14	SMITH MICHAEL	
8	DPW-BSM	4/23/14	4/24/14			4/24/14	CY LIONGTIAN	Approved Site Permit only! 4-24-14 DPW/BSM shall not release construction addenda until complete application and photos for Inspection Conformity are submitted and approved Please submit application with all Inspection Conformity requirements at 1155 Market Street, 3rd

Exhibit 1
Pg 2

								floor, and Tel. No. (415)-554-5810. Your construction addenda will be on hold, until all necessary DPW/BSM permits are completed, or the receiving BSM plan checker-recommending sign off
9	PPC	4/25/14	4/25/14			4/25/14	THAI SYLVIA	
10	CPB	4/25/14	4/25/14			4/25/14	LEE ANITA	04/25/2014: Approved - Anita

This permit has been issued. For information pertaining to this permit, please call 415-558-6096.

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
8/28/2014	AM	VS	IVR Scheduled	REINFORCING STEEL	1
8/26/2014	AM	CS	Clerk Scheduled	COMPLAINT INVESTIG	1
8/19/2014	AM	CS	Clerk Scheduled	COMPLAINT INVESTIG	1

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
8/26/2014	Donal Duffy	COMPLAINT INVESTIG	COMPLAINT INVESTIG
8/19/2014	Donal Duffy	COMPLAINT INVESTIG	COMPLAINT INVESTIG

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
1			1	CONCRETE (PLACEMENT & SAMPLING)	J:Drive
1			4	REINFORCING STEEL AND PRETRESSING TENDONS	reinforcing steel
1			5A1	SINGLE PASS FILLET WELDS < 5/16"	
1			19	SHEAR WALLS AND FLOOR SYSTEMS USED AS SHEAR DIAPHRAGMS	
1			20	HOLDOWNS	
1			18A	BOLTS INSTALLED IN EXISTING CONCRETE	

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

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

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

Contact SFGov Accessibility Policies
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Exhibit 2 (2 pages)

From: O'Riordan, Patrick (DBI) (DBI) <patrick.oriordan@sfgov.org>
To: 'caattard@aol.com' <caattard@aol.com>
Cc: charlene <charlene@charleneattard.com>; Duffy, Donal (DBI) (DBI) <donal.duffy@sfgov.org>
Subject: RE: 157 Randall follow up email after phone call
Date: Wed, Sep 3, 2014 12:38 pm

Hi Charlene,

I have discussed your concerns with Acting Senior Building Inspector Donal Duffy. The reality is that your adjacent neighbor is planning on installing a copper flashing between your building and theirs. This is mutually beneficial to both buildings and is typical at San Francisco zero lot line conditions. However, if you do not want this to happen you should communicate this to your neighbor. Our Inspection staff will only approve what the approved permit documents reflect. You will have your opportunity to make your case at the Board of Appeals for your jurisdiction request. That is the forum where you should make your case for appeal of whatever you believe to be inappropriate about the project.

Regards,

Patrick O'Riordan

Chief Building Inspector

3rd Floor, 1660 Mission Street

San Francisco, CA 94103

Tel. 415 558 6105

From: caattard@aol.com [mailto:caattard@aol.com]
Sent: Tuesday, September 02, 2014 1:51 PM
To: Patrick.O'Riordan@sfgov.org
Cc: charlene@charleneattard.com
Subject: 157 Randall follow up email after phone call

Hi Mr. O'Riordian,

Thank you for your time on the phone last Thursday. I am sending this email per your request to follow up on our conversation. As you mentioned on the call, if the project at 157 Randall St. requires weatherproofing between the two buildings it should be detailed on the building plans. Also, you mentioned, if the drainage or flashing materials for weather proofing encroache over the neighboring property line that it would raise a red flag in the building department, the owners of the neighboring property would be notified and the permit would not be issued.

As you suggested, my husband and I went 1660 Mission St, 4th floor to view the plans. We had difficulty reading the plans and we were unable to determine if there is any weatherproofing indicated on the plans for the new wall at 157 Randall St.

The permit holder at 157 Randall and his contractor have just informed us last week that they plan to weatherproof the the existing property wall of 153 Randall and the new property wall of 157 Randall by encroaching over the property line at 153 Randall St. by 1-2 feet. This **new information** is not acceptable to us. If we were informed of this previously, while the plans were in the building/planning department or prior, we would never have agreed to this. In fact, if weatherproofing and or encroachment is indicated on the permitted plans for 157 Randall St., please provide us with any information now. You mentioned that you would be following up with Donald Simas and Donald Duffy, the inspectors for this project. Please clarify with them or with the building department plan checker whether or not there is a plan for weatherproofing the two property walls? Please determine that this was not previously missed in the building department review. Please provide us with any information on the permitted plans regarding weatherproofing of the walls and or encroachment as soon as possible.

Also, as mentioned your busy schedule does not allow you to actually see many of the job sites. Under the circumstances and considering the attention that this project will be receiving, if you do have time in your schedule to see this job site and the problem at hand, please call me.

Thank you for your help.

Sincerely,

Charlene Attard

John Clifford

153 Randall St.

San Francisco, CA

415 648 4488 office

415 608 8585 cell

Exhibit 3
(4 Pages)

Easements & Encroachments

San Diego Lawyers Real Estate –providing legal solutions for boundary disputes, boundary lines, encroachments, easements and other property problems

Easements and encroachments affect the ownership of your land. Sometimes issues with encroachments and existing or potential future easement claims can be worked through without too much dispute. Unfortunately, sometimes, litigation is the only choice left to protect your property rights. If you do not act quickly, your property value may drop significantly and permanently.

Getting help from a San Diego real estate attorney

An encroachment, establishment of an easement or even a simple easement claim can significantly devalue your property. If you want to protect your property against unauthorized use, it is best to work with a real estate attorney to determine the best options for your own individual circumstances. A real estate attorney can advise you as to the best course of action to take and can prevent unjust loss of your property rights.

Easements

An easement is a "right" to use another person's property; it is not an ownership interest and does not transfer title to the property. However, the neighbor, person or entity using the property, given certain circumstances, actually owns this easement to the property.

Types of Easements:

Easement by express agreement. An easement can come about by written ("express") agreement and is usually recorded in the deed to the property over which the easement is granted.

Implied Easement. An implied easement is created where an existing use was intended between two owners of property prior to a division of property.

Equitable easement. If a court denies an injunction requesting removal of an unlawful encroachment upon the owner's property, an "equitable" easement is created. This is generally allowed when continuance of the easement would cause little harm, while taking it away would cause great injury to the user.

Easement by prescription. An easement can be created by "prescription." This right is established by proving: (1) continuous use of the property for 5 years, (2) actual and open use, (3) no exclusion of the owner from the property and (3) without the owner's permission, but with the owner's knowledge.

For example: property owner A uses a trail across B's property to access a building located on A's property. A uses this trail for over five years. Then B builds a structure blocking the trail so that A cannot access his building. A's use of the trail is an easement by prescription. A will be able to obtain an injunction against B's structure because it encroaches on his easement rights.

Right of way easement. The example above is considered a right of way easement created by way of prescription. It is the most common type of easement giving a right to travel over another's property. Easements can be granted to people such as a neighbor or to an entity, such as utility companies. Some examples of right of way easements include:

- **Public utility** – allows any utility company access.
- **Water and sewer lines** – allows only water and sewer utility companies access.
- **Public use** – allows the state to build roads.
- **Road access** to a main highway by neighboring landowner or others.

Easement by necessity. This type of easement is created when a property owner is "landlocked" and must use another's property to access a street or highway.

Scope of the easement. Scope is determined by type of easement. For example, the scope of an express easement is limited to the agreement; the scope of an easement by necessity is limited in scope to the necessity. If an agreement states that A may only pass over B's land when it snows, then A may pass only when it snows or A will be liable for trespass. Likewise, if a necessity is to access a highway, A may only use B's land to get to the highway.

Landowner protection against an easement

For the actual landowner, an easement is difficult to terminate. Thus, easement claims can cause great expense due to hefty litigation and other costs easily avoided through proper legal representation and awareness as to the various strategies and procedures in protecting your property. San Diego Law Firm can help you defend your property due to unauthorized use before a claim such as this occurs, and if it does occur, we will aggressively represent you in negotiations and in court for possible future easement claims.

It is important to proceed with caution when deciding to give someone access to use your property. The agreement should be drafted by a skilled real estate attorney detailing the parties, locations and specific uses. Another safeguard is to draft a "notice of permissive use" to aid in avoiding future problems over what is and what is not allowed.

Neighboring landowner protection of an easement

For a neighboring property owner, there may have been questions over the years regarding the boundary line with another owner of property. The neighbor may have encroached unlawfully, but unknowingly, because the other property owner never disputed it and may have actually allowed the encroachment. It is important to have legal representation by a qualified San Diego Real Estate Attorney (http://www.sandiegolawfirm.com/real-estate) to carefully guide you through your options and protect your easement rights.

Encroachments

An encroachment is a trespass onto another's property without consent, such as creation of a building, dividing wall, driveway or shrub. Due to this interference, a property owner may recover for an unauthorized interference with his or her property rights.

Important things to know about encroachments:

Establishing existence of an encroachment. The existence of a physical encroachment is easily determined by a survey indicating the property line. If a structure extends over the property line, an encroachment exists. If the parties cannot agree and want to rely on different surveys, a boundary dispute must be resolved before a remedy can be granted for encroachment.

Three year statute of limitations. A property owner seeking an injunction to terminate an encroachment or recover money damages must take action within 3 years from when the encroachment first began. It is of no consequence if the property owner being encroached upon knew an encroachment existed, except in certain circumstances.

Balancing hardships when an encroachment is discovered. A court may balance the hardships of each party finding that the cost of removing an encroachment far exceeds the harm done. A neighbor who encroaches on the property of another must act in good faith before hardships may be balanced. When the encroachment is allowed to continue, the property owner will be awarded money damages for loss of use of the property.

For example, a reservoir encroaches on property and the owner seeks to remove it. A court will balance the interests and find the encroaching reservoir will stay because it supplies water to a significant amount of property owners.

Delay in objecting to encroachment. A property owner will not be able to obtain an injunction or money damages against the encroaching party if he delays making a claim causing the neighbor to rely on him allowing the encroachment.

Allowing encroachment and loss of property rights. An owner who allows a known encroachment on his property to continue for over 5 years risks losing property rights through a prescriptive easement. Thus, a property owner must act quickly to remove the encroachment.

Equitable easement. When a property owner allows an encroachment on his or her property, an "equitable" easement is created to keep the encroachment on the property. However, the property owner must be compensated for loss of use of the property.

Remedies for an encroachment. Once an encroachment has been determined, the remedies available to the property owner include: (1) an injunction ordering the removal of the encroachment and (2) money damages for the loss of value to the property.

Ready to talk about easements or encroachments? We're here to help.

We have many years of experience in negotiating agreements, defending against and preserving encroachments and easement rights. For more information or to schedule an appointment, click the button below, or call us at 619-794-0243. We look forward to helping you.

Real Estate Entitlement (http://www.sandiegolawfirm.com/real-estate/other-real-estate-development/real-estate-entitlement/)

Zoning Issues (http://www.sandiegolawfirm.com/real-estate/other-real-estate-development/zoning-issues/)

Subdivisions / Lot Splits (http://www.sandiegolawfirm.com/real-estate/other-real-estate-development/subdivisions-lot-splits/)

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Easements & Encroachments (http://www.sandiegolawfirm.com/real-estate/other-real-estate-development/easements-encroachments/)

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View on LinkedIn (http://www.linkedin.com/company/san-diego-law-firm)
Watch on YouTube (http://www.youtube.com/user/sandiegolawfirm)

Stop by our office

(https://maps.google.com/maps?
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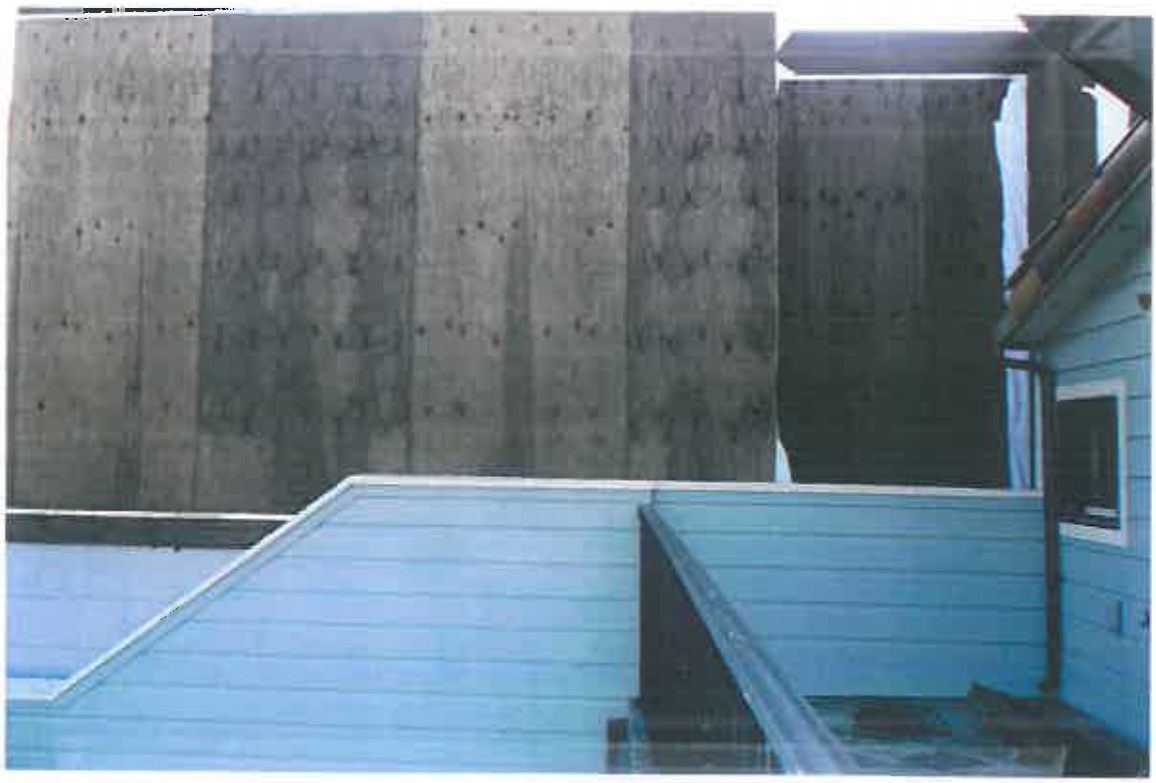
San Diego Law Firm
2828 University Ave Ste 102
San Diego, CA 92104

Phone: (619) 794-0243
Fax: (619) 794-0253
contactus@sandiegolawfirm.com

Exhibit 4

Photo of rear wall blocking sunlight



New wall extending 19' in rear beyond our living space

Exhibit 5

New wall extending 15' in front beyond our living space

View of front wall from inside

October 2, 2014

RECEIVED
By chuang at 3:39 pm, 10/2/14

Board President Lazarus and Commissioners
Board of Appeals
1650 Mission Street, Room 304
San Francisco, CA 94103

Re: Jurisdiction Request Scheduled for Hearing on October 29, 2014
157 Randall Street
Permit No. 2013/06/25/0447

Dear President Lazarus and Commissioners:

My wife and I obtained Building Permit No. 2013/06/25/0447 to build an addition to our home at 157 Randall Street. We are five months into the construction of the addition and have completed most of the exterior work. At this late stage, our neighbors, Mr. Clifford and Ms. Attard ("Appellants"), have filed a Request for Jurisdiction. The Request before you is the second Jurisdiction Request filed by Appellants. Appellants withdrew their first Request (after we filed our brief and rearranged our schedules to attend the hearing), just 24 hours prior to the hearing date on September 17, and filed this second Request on September 22.

The Request is without merit. Appellants were well aware of the project and approval process. The Building Department has determined the project is being constructed according to the approved plans. We do not require access to the Appellants' property to build our project in accordance with the Building Code. On September 19, Planner Michael Smith performed a site visit at Ms. Attard's behest. After their meeting, Mr. Smith met with us and confirmed the Planning Department's continued support of the project. We believe Appellants' objections

are private in nature and are more appropriate for a court, mediator or arbitrator and do not justify granting their Request.

Background. We moved to our home at 157 Randall Street in 2005, just as we were starting our family and our neighborhood has proved an ideal fit to raise our growing family. In the planning phase we and our architect had multiple meetings with Appellants at our respective houses to inform them of the project and respond to their concerns after (as they admit) they missed the required official neighborhood meeting. They are knowledgeable about architectural plans and the approval process having completed their own major addition. Appellants did not file a Request for Discretionary Review or appeal the Permit.

Standard for Jurisdiction Request. According to the Board's Rules, "The Board may grant late jurisdiction only upon a showing by the requestor that the ***City intentionally or inadvertently caused the requestor to be late in filing the appeal***." (Emphasis added) Appellants have not provided any evidence to meet this standard.

They claim the City misled them. In support of this argument, they state the required setbacks in their project are greater than in our project even though Planner Michael Smith was the same planner for both projects. However, rules are applied based on the specific circumstances of the individual properties. Our building has a front set back at the second and third floors; therefore, the third floor remodel did not have an additional set back. In contrast, the Appellants' building does not have a front set back on the lower levels, which may the be the reason that a set back for their third floor addition was required. Further, policies

and the application of rules change over time and the Planning Department cannot be held to the policies and rules in place many years ago. Finally, the setbacks of our project were clearly shown on the plans. The time for the Appellants to raise this issue was during the 311 Notice and appeal periods.

We did not mislead Appellants about the project either (although only the City's misleading gives grounds for this appeal). We made ourselves and our architect available to them on many occasions to explain the project. (See Exhibits A and B.) The plans clearly detailed the proposed height and setbacks. At no time did we state the project's height would be lower than the height shown in the plans. In fact, we made many changes to the project to address their concerns. They received all required notifications and were given many opportunities to object to the project. They chose not to file a Request for Discretionary Review or appeal the Permit.

We are now five months into construction of the project with the walls and roof completed. DBI has agreed that the project is being constructed in accordance with the approved plans. In response to a complaint filed by Ms. Attard that the building was being constructed too high, Senior Building Inspector Mr. Donal Duffy measured the building and found the height is according to the approved plans. (See Exhibit C.)

In the first Request, Appellants objected to our request to remove the portion of Appellants' roof that encroached onto our property and obstructed our construction. The encroachment was not discovered early in the process because it was minor and not readily apparent. It took only three hours to

remove it. We did not have a survey prepared because it was not required by the Building Department. If anyone should have known about the encroachment and raised it early in the approval process, it is Appellants as it was their construction project that created the encroachment. This is a private issue that has since been resolved.

The weatherproofing of our building also is a private issue that does not justify the Request. The plans show how the project will be weatherproofed. The project can be constructed to meet all Building Code requirements from our property alone and does not require us to access the Appellant's property to meet any requirement, including weatherproofing. Flashing between the two buildings would be an additional layer of protection above and beyond the Code requirements and would be beneficial to both properties. We did do not show flashing between the two buildings on the plans because the Building Department does not approve work occurring across the property line. We have not done any work touching their property nor installed flashing over their property. Appellants objected to the original flashing design that we proposed. We have since proposed two alternative designs for the flashing. However, Mr. Clifford and Ms. Attard are unwilling to discuss it with us and instead filed the two Requests.

Issues Involved Are Civil And Not Related To The Building Code.

The issues raised by Appellants in their Request do not involve Code related issues; they are civil in nature. We now would like to reach an agreement on a mutually acceptable way to flash the property line; however, we do not need

to reach this agreement in order for our construction to be completed according to the Building Code. We have made every effort to reach an agreement. We engaged a weatherproofing architect to provide a report on the situation and to propose a solution to weatherproof both properties. The report was promptly provided to Ms. Attard and Mr. Clifford and we indicated openness to their choice of contractor to do the work on their roof. We then offered to pay Ms. Attard and Mr. Clifford $5,000, to assist them with the unanticipated expense of removing their encroachment and weatherproofing between the buildings. We made this offer contingent on their willingness to refrain from filing complaints or delaying our project any further as well as additional terms that were intended to protect us from liability for work on their property. They are unwilling to accept a flashing design. Attached at Exhibit D is correspondence seeking to resolve the issue of the weatherproofing. We are willing to pay for the work to install the flashing and we have proposed designs that drain water away from Appellants' deck or, are affixed to their sidewall and do not go over their ledge. We cannot understand our neighbor's refusal to accept any of these solutions.

Conclusion.

In summary, Appellants' Request should be denied. They have not met the standard to justify the Request and only have raised issues that are for private resolution. Time after time, Ms. Attard and Mr. Clifford have ignored formal opportunities to register their concerns. Yet we have accommodated their concerns whenever given the opportunity. Our other neighbors strongly support our project and its benefits to the neighborhood. They would like to have the

project completed expeditiously. They have also testified to our character. (See Exhibit E.) We wish to move forward on solutions to flash the properties together for the mutual benefit of both properties. This calls for a neighbor-to-neighbor negotiation, not a Request for Jurisdiction.

Sincerely,

Maneesh Jain and Nadya Ramsaroop

Enclosures

cc: John Clifford and Charlene Attard

Exhibit A

Minutes from Neighbor Meetings with our Architect at their house on August 28, 2013 and March 13, 2014

YAMA MAR
Architecture

yamamardesign.com 619 7th Street San Francisco CA 94103 p 415 550 3003

September 4, 2013

MEETING MINUTES

Date:	08.28.13
Where:	153 Randall
Why:	Review Design as submitted to SF Planning (311)
Attending:	Charlene Attard, John Attard, David Y

1. Review of Current Design
Reviewed the basic design, zoning envelope, set backs, height limit, fire restrictions, and the reason for the project, which is to have a usable 3rd story with at least 8 feet of headroom.

2. 3rd Floor North Wall at Street
The current 3rd floor exterior wall (North) of the new Master BR extends North of the 2nd floor Living RM wall by 2'-2". This will land in the middle of Charlene's 3F railing. Charlene requested that we keep the wall to the South of her railing, preferably aligned with the 2nd floor below, or set back from the 2nd floor wall.

3. Height of 3rd floor Wall East
Reviewed the height of the proposed design at the East property line. This wall will be approximately aligned with the high point of Charlene's clay tile roof (ridge running E-W). Charlene seemed to be ok with the height, and understood that the height was established by the 8'-4" ceiling height at the interior. I stated that it might be possible to come down 4" by having 8'-0" at the interior.

4. 2F Street Side Deck East Firewall
Reviewed the 42" required height of the deck firewall, which allows us to use the deck area at the East property line. The 42" height will put the wall higher than Charlene's West wall (her property is downslope). Charlene requested that we lower the height to align with her wall. I explained that the height was code mandated. We discussed the possibility of building the 42" high wall, then lowering after final inspection. We discussed that this would need to be disclosed in the even of a sale of either property.
Charlene asked what we are doing at the West side of the proposed deck. I explained that we are staying back approximately 4'-4" from the West property line of 157 Randall. Charlene requested that we make use of the West side not the East side which is adjacent to her property.

5. Window at East Light Well
Reviewed the 3F proposed plan which keeps the existing window at the light well. John requested that we consider removing this window and add skylights at the interior. I told John that I would discuss this option with you.

6. Rear Yard Kids Deck
Reviewed the deck layout, explained that the existing South wall of the 2nd floor is technically encroaching into the required rear yard setback, and that the 3rd floor South exterior wall of the kids bedrooms is positioned at the rear yard setback limit. Explained

that the deck is set back 5' -0" from both East and West property lines to avoid building a 42" H firewall on either side. Charlene asked that we consider doing the same at the front deck.

7. Drainage at 153 Randall Concrete Retaining Wall

Spent some gratis time (1/2 hour) discussing options on how to mitigate the water that comes in to the sunken area through weep holes John drilled into the concrete walls. This issue was completely independent of the design review.

8. Summary

Charlene wrote down her 3 major concerns (items #2,4, and 5) on a sticky and gave it to me. I told her I would discuss the meeting with you and Maneesh, but did not make any promises. I did not provide a date for getting back to her, but said 'in the next few weeks'.

Meeting minutes are part of the official Project Record. Comments and revisions to the minutes should be received within 7 days of the date of issuance.

YAMA MAR
Architecture

yamamardesign.com 619 7th Street San Francisco CA 94103 p 415 550 3003

MEETING MINUTES

Date:	03.13.14, 3- 4:30pm
Where:	153 Randall
Why:	Review plans which came with 311 notification
Attending:	Charlene Attard, John Attard, David Y, Nadya Ramsaroop (partial)

1. Review of the revised Design
Reviewed the new flat roof design, explained that the roof was changed from a gable to a flat roof at the request of Planning. Planning wanted to see the mass and visible bulk at the street reduced. I also explained that the roof height is very close to the previous height of the side walls in the gable roof design. Explained that overall, the revised design resulted in reduced mass and more light to her property.

2. Rear Building Line at 3rd Floor
Charlene asked where the South exterior wall of the 3rd floor would begin. I explained that per the design drawings, we were pulling back the rear wall approximately 7'-4" from the existing South wall (at 2K rear yard level). I Explained that the 3F building line was the same as the rear yard setback line. Charlene stated that this was the area of highest concern for her. (At the first meeting with Charlene, the build out of the 3rd floor rear was not a high priority or a major concern). Explained that our new flat roof design would drain water to the inside of the building and would significantly reduce the risk of rainwater seeping on to their downslope property.

Charlene requested we reduce the footprint of the 3rd floor at the rear by 7 to 10', to align with the guardrail of her deck. I explained that this was not a viable option for the Owner because the structural and architectural permit drawings have been completed, and the owners area schedule to move out in a few weeks. I also stated that this was not a concern brought up when I first met with them. I also explained that this area is for the kids' bedrooms, and that shortening the overall length would result in a project delay and additional costs for the Owner.

3. East Facade Siding
Charlene requested that we remove the asbestos shingle from this side wall. I responded that we will properly abate the asbestos siding, and replace with painted ship lap wood siding of her color choice.

4. East Light well Window at 3F
Explained to Charlene that the Owners had agreed to reduce the size of the existing window per her previous request. Explained that this is a fire rated window which is not operable. Explained that the Owners would like to maintain a view to Bernal Heights but were willing to raise the sill height to insure more privacy for Charlene and John.

5. 2F Street Side Deck East Fire wall
Explained that per her request, we were going to submit the building permit Addendum with a 30" high fire wall. Explained that DBI might ask that we raise the height to 42", but we would at least try, and that this is a life safety issue mandated by fire code.

6. Height of Roof
Charlene asked how high the proposed roof would be. I explained to her that the new flat roof parapet

height would be approximately 2 feet above the existing ridge of 157 Randall. Explained that the new roof design would result in more light than the previous gabled roof design.

7. Extent of 3F Overhang at North (front)
Explained that during the planning staff review process, we reduced the overhang to 18" from previous design of 2'-2". Charlene seemed to be ok with this.

8 Nadya at Meeting
Charlene called Nadya on the phone and asked if she could come over and review some of the items. Nadya came over, and we (Nadya, Charlene and John Attard, and I) quickly reviewed Charlene's concerns again. I left the 3 of them around 4:30pm.

Meeting minutes are part of the official Project Record. Comments and revisions to the minutes should be received within 7 days of the date of issuance.

Exhibit B (Timeline)

5/30/13 Neighborhood meeting; Appellants don't attend. **8/7/13** (Owner's home) **& 8/28/13** (Appellant's home with Architect) meetings to review the project. **9/8/13** Maneesh & John discuss Appellant concerns per 8/28/13 minutes. **10/8/13** Owner/Architect/Michael Smith meeting to address the roof/massing change. **10/16/13 Residential Design Team (RDT)** confirms design is consistent with review. **12/7/13** Maneesh updates John on plan changes and accommodation of their concerns from 8/28/13: 3F North Wall pulled back, 2F firewall height set at DBI minimum, 3F window made higher/inoperable. **1/12/14** Maneesh texts John Re: 311 notification. **2/13/14** Charlene confirms 311 receipt to Maneesh who invites discussion as needed. **2/28/14** Architect/Charlene phone call; 3F North Wall setback only concern raised. **3/2/14**: 311 expires. Architect meeting at Appellant's home rescheduled to **3/13/14** (Charlene declines to meet with Architect by phone or with his assistant in person on 3/3/14). **3/13/14** Appellants request 3F rear setback be moved an additional 9ft. for the first time. Architect/Nadya say this is not feasible at this stage. **4/4/14** letter to Appellants that project to proceed as planned.

Exhibit C

Complaint Data Sheet

City and County of San Francisco
Department of Building Inspection
1660 Mission Street
San Francisco, CA 94103

COMPLAINT DATA SHEET

COMPLAINT NUMBER : 201489993

OWNER/AGENT: JAIN-RAMSAROOP REVOC TR
JAIN-RAMSAROOP REVOC TR
MANEESH JAIN & NADYA K RAMS
157 RANDALL ST
SAN FRANCISCO CA
94131

OWNER'S PHONE --
CONTACT NAME
CONTACT PHONE --

COMPLAINANT: Charlene Attard

SAN FRANCISCO
COMPLAINANT'S PHONE --

DATE FILED: 13-AUG-14
LOCATION: 157 RANDALL ST
BLOCK: 6663 **LOT:** 031
SITE:
RATING: **OCCUPANCY CODE**
RECEIVED BY: Gregory Slocum **DIVISION:** INS
COMPLAINT SOURCE: TELEPHONE

ASSIGNED TO DIVISION: BID

DESCRIPTION: Work not according to approved plans (building too high)
INSTRUCTIONS:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	SIMAS	6218	16	

REFFERAL INFORMATION

DATE	REFERRED BY	TO	COMMENT

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIVISION	INSPECTOR	STATUS	COMMENT
13-AUG-14	CASE OPENED	BID	D SIMAS	CASE RECEIVED	
15-AUG-14	OTHER BLDG/HOUSING VIC CES		D SIMAS	CASE CONTINUED	co-ordinate with district inspector for height verification. D Duffy.
19-AUG-14	OTHER BLDG/HOUSING VIC CES		D SIMAS	CASE CLOSED	Measured building with Insp Simas. Building height according to approved plans.D Duffy.

COMPLAINT ACTION BY DIVISION

DIVISION	DATE	DESCRIPTION	ACTION COMMENT

NOV (HIS) **NOV (BID)**

ISS Inspection History

Block	Lot	Structure #	Street #	Street name	Sfx	Unit
6663	031	0	157	RANDALL	ST	

Source
- ○ Complaint
- ◉ Permit
- ○ Address

No. 201306250447

Application Description: 28 SQ FT HORIZONTAL ADDITION TO 3RD FL W/ RAISE ROOF 8'10", INTERIOR REMOD

Owner name	Form #	Value	Disposition type	Disposition Date	Special Inspection
JAIN-RAMSAROOP REVOC TR	3	$286,622.00	ISSUED	04/25/2014	Y

Special Inspections

Phone	# of Plans	# of Units	# of Stories	Occupancy	Bldg. Use	Expiration Date	Penalty
(650)281-5648	2	1	3	R-3	27	04/25/2015	0

INSPECTION ACTIVITIES

Inspector Name	Activity Date	Status Code	Status Description	Description	Turn around code	Task minutes	Type
Simas, Donald	08/28/2014	122	REINFORCING STEEL		AR	00:30	VS
Duffy, Donal	08/19/2014	109	COMPLAINT INVESTIG		AR	00:30	CS

Exhibit D

Correspondence Attempting to Reach An Agreement

---------- Forwarded message ----------
From: <caattard@aol.com>
Date: Tue, Sep 2, 2014 at 7:58 AM
Subject: Re: Following up on property line Flashing discussion
To: clonduffconst@hotmail.com, charlene@charleneattard.com, jgctlm@aol.com
Cc: maneesh.jain@alumni.stanford.edu, nadyakr@yahoo.com

No.

Charlene Attard
Realtor DRE # 01045729
Alain Pinel Realtors
3701 Buchanan St.
San Francisco, CA
415 648 4488 office
415 608 8585 cell
415 648 2488 Fax

-----Original Message-----
From: Eamonn McCusker <clonduffconst@hotmail.com>
To: charlene <charlene@charleneattard.com>; jgctlm <jgctlm@aol.com>
Cc: Maneesh Jain <maneesh.jain@alumni.stanford.edu>; Nadya Ramsaroop <nadyakr@yahoo.com>
Sent: Sat, Aug 30, 2014 2:54 pm
Subject: Following up on property line Flashing discussion

> Charlene and John,
>
> I'm following up on our discussion Tuesday AM (Aug 26) regarding flashing options between the properties.
>
> Flashing between zero lot line properties is typical in SF to prevent water damage to either property in the event of rain, with several examples in your neighborhood.
>
> What are your thoughts on the sloped/cap flashing option I had explained Tuesday? This effectively collects the rainwater off

the property line wall and drains it onto the deck at 157 Randall street. It addresses your concern of
water drainage onto your property.
>
> Let us know your thoughts. Maneesh and I are available to meet as needed. Have a good labor day weekend.

> Take care
> Eamonn

From: <jgctlm@aol.com>
Date: Sun, Aug 24, 2014 at 9:40 AM
Subject: Re: Completion of Roof Work
To: maneesh.jain@alumni.stanford.edu

Maneesh,
We removed the gutter which was impeding the progress of your remodel. You are responsible for all subsequent waterproofing which is directly necessitated by your remodel. We contracted with Standard Roofing (this is non-negotiable) to remove the existing gutter. They will complete the work as per your proposal of July 3, 2014. Please deliver a check tomorrow payable to Standard Roofing in the amount of $3000. We will pay the remainder as a good neighbor gesture.
Thank you,
John Clifford

-----Original Message-----
From: Maneesh Jain <maneesh.jain@alumni.stanford.edu>
To: caattard <caattard@aol.com>; charlene <charlene@charleneattard.com>; jgctlm <jgctlm@aol.com>
Cc: clonduffconst <clonduffconst@hotmail.com>; maneesh.jain <maneesh.jain@stanfordalumni.org>
Sent: Mon, Aug 18, 2014 2:19 pm
Subject: Re: Completion of Roof Work

Time is of the essence. As a courtesy reminder, Standard Roofing has left your roof exposed, should there be a chance of rain at the end of the week or early next week.

Regards,
Maneesh

On Aug 18, 2014, at 11:05 AM, "caattard@aol.com" <caattard@aol.com> wrote:

We will get back to you at the end of the week or early next week.

Charlene Attard
Realtor DRE # 01045729
Alain Pinel Realtors
3701 Buchanan St.
San Francisco, CA
415 648 4488 office

415 608 8585 cell
415 648 2488 Fax

-----Original Message-----
From: Maneesh Jain <maneesh.jain@alumni.stanford.edu>
To: Charlene <charlene@charleneattard.com>; Charlene Attard <caattard@aol.com>; jgctlm <jgctlm@aol.com>
Cc: Eamonn McCusker <clonduffconst@hotmail.com>; maneesh.jain <maneesh.jain@stanfordalumni.org>
Sent: Sat, Aug 16, 2014 9:08 pm
Subject: Completion of Roof Work

Charlene and John,

We hope you had an enjoyable trip out of town.

We are ready for your roofer (Standard Roofing) to complete the work they had started, including edge flashings to all edges that were previously flashed or should be flashed.

Our contractor (Eamonn McCusker, copied) has recommended that this work be completed ASAP while we still have good weather. Please let us know how soon your roofer can do this.

On property line areas other than the roof area, we can get our roofer to do the flashing. However, let us know your preference. If you have any questions, please contact me.

Regards,

Maneesh

650.281.5649 (mobile)

From: **Charlene Attard** <caattard@aol.com>
Date: Tue, Jul 22, 2014 at 11:34 AM
Subject: Re: Standard Roofing Contract
To: Maneesh Jain <maneesh.jain@alumni.stanford.edu>
Cc: Charlene <charlene@charleneattard.com>, "jgctlm@aol.com" <jgctlm@aol.com>, "clonduffconst@hotmail.com" <clonduffconst@hotmail.com>

If you refuse to sign contract taking responsibility for payment, please send a signed statement saying that you have received both statements from Standard Roofing dated July 18th, 2014 and that you assume full responsibility for payment minus the cost for removal of existing gutter and tiles extending beyond junction of property walls. Also state that you agree to have Standard Roofing complete the entire job. This is the only way that the removal of tiles and gutter will be done before July 25th and prior to August 8.

Sent from my iPhone
Charlene Attard

CharleneAttard.com

On Jul 22, 2014, at 11:23 AM, Maneesh Jain <maneesh.jain@alumni.stanford.edu> wrote:

Charlene and John,

To remove the encroachment, we will grant access to our property. All other work to remedy the encroachment can only be performed on your property, including the flashing of the two houses. All of this can be done in coordination with our contractors and does not require us to enter into a contract with your roofer. We are not in a position to authorize, assume any liability, or responsibility for any work done on your property. Therefore, we are not able to enter into any agreement directly with Standard Roofing, your roofer. This is a non negotiable item.

We can only assume that by indicating your intent to not sign the letter agreement, you are not interested in any financial contribution from us to remedy the encroachment from your roof. As a reminder, this encroachment is solely your responsibility.

We wish to reach an agreement. We are willing to pay you for the terms of the agreement ($5000.00) and will extend the deadline for signing to 5PM Tuesday, July 22, 2014. We are available to discuss any issues you have with the agreement. As our counsel indicated, if we cannot reach an agreement, we will pursue legal action to have the encroachment removed by Friday July 25th, 2014.

Regards,

Maneesh

Exhibit E

Letters of Support

September 1, 2014

Re: Support letter for the owners of 157 Randall Street

I am writing a support letter on behalf of Nadya Ramsaroop and Maneesh Jain who are remodeling their house located at 157 Randall Street. They and their two young daughters have been my neighbors since 2005. During this period of time they have been very friendly and responsible neighbors.

Their neighborhood outreach before and during their remodel has been exceptional. On May 2014, they conducted a formal neighborhood meeting in which their architect presented a model of the proposed remodel and answered questions. In addition to this meeting Nadya and Maneesh have communicated with the neighborhood on multiple occasions informing us about the status of the project. On a continual basis they have made themselves available to answer questions and concerns. They have even offered to make their architect available to answer questions and concerns on a continual basis.

We live on a street which has had many remodels and several new homes built. I have lived here twenty eight years. This family has provided the most informative outreach and consideration for the neighborhood I have ever experienced.

I fully support this thoughtful remodel. Nadya, Maneesh and their two children are wonderful neighbors, and I am glad they have chosen to stay in neighborhood. Their remodel is very compatible with the neighborhood and will be stunning when finished.

Sincerely,

Katherine Howes

Katherine Howes
Owner of 158 and 158 A Randall Street

August 30th 2014

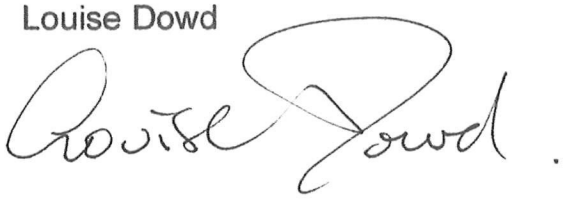
To whom it may concern,

My name is Louise Dowd. I live at 160 B Randall Street with my husband Dan and 2 children, Liam(5) and Abbey(3). I have known Nadya and Maneesh and their daughters Serina(8) and Riyana(5) since 2007 when we moved to the neighborhood. In our experience they have been exceptional neighbors, warm, friendly and very trustworthy.

They have been active and considerate in their outreach to the neighborhood regarding the remodel of their home at 157 Randall st. In addition to the formal neighborhood meeting on May 30th 2013 they reached out to us on multiple occasions informing us of the status of the project, answering any questions and offering to make their architect available. They notified us when changes were made to their plans.

In our experience dealing with Maneesh and Nadya, they have been straightforward, upfront and without hidden agendas. We fully support the remodel of Maneesh and Nadya's home. The project will provide housing for a young growing family in a way that is compatible with our neighborhood.

Sincerely,
Louise Dowd



MARY POWELL & ADAM MESSINGER
161 Randall Street
San Francisco, CA

September 2, 2014

Re: Construction at 157 Randall Street

To Whom It May Concern,

Nadya and Maneesh have requested that we compose a letter that explains how the remodel of their home at 157 Randall Street has impacted us. We live at 161 Randall Street, which is next door to Nadya and Maneesh. We have been their neighbor since 2008. In the 6 years that we have been neighbors, we have found them to be honest and caring people.

While construction and remodel of a neighboring home is always hard on everyone, we feel that they have been very open about the process and provided us with any information that we have requested. When we have had issues with the noise or the design, they have been very accommodating. We appreciate that they are working on making their house nicer—which is a benefit for the neighborhood. We have been supportive of their efforts and we have found that they have been respectful of us.

Regards,

Mary E. Powell

cc: Adam Messinger

September 3, 2014

To Whom It May Concern,

My name is Chris Kanelopoulos, and I live across the street from Nadya Ramsaroop and Maneesh Jain at 160A Randall Street. My wife and I have lived here for about 12 years, and we also have two young sons.

I'm writing to support the efforts of Nadya and Maneesh as they attempt to remodel their home. Nadya and Maneesh and their daughters have been our neighbors since 2005. They have been warm and friendly neighbors since the day that they moved in, and their considerate nature has extended to the clear communication that they have provided us regarding the remodel of their home at 157 Randall Street.

We were invited to a formal neighborhood meeting on May 30, 2013, at which Nadya and Maneesh, and their architect, were available to answer any questions about the project. Additionally, they have reached out to us on multiple occasions to inform us of their progress, and they have also notified us when changes were made to the original plans.

Maneesh and Nadya have been straightforward and up front with us at each stage of their project and we fully support the remodel of their home. The project will provide housing for a young, growing family in a way that is compatible with our neighborhood.

Sincerely,

Chris Kanelopoulos

Chris Kanelopoulos
160A Randall Street
San Francisco, CA 94131