



Edwin M. Lee
Mayor

Cynthia G. Goldstein
Executive Director

September 12, 2014

Timothy Gillihan, Permit Holder
843A Capp Street
San Francisco, CA 94110

Re: **JURISDICTION REQUEST**
Subject Property: **843 Capp Street**
Application No(s): **2014/07/16/1400**
Type(s) of Action: **ISSUANCE of Alteration Permit**

Dear Permit Holder(s):

The Board of Appeals has received the enclosed letter requesting that it take jurisdiction beyond the fifteen (15)-day appeal period for the matter(s) referenced above. This **JURISDICTION REQUEST** has been scheduled for consideration on **Oct. 08, 2014, at City Hall, Room 416, at 5:00 pm**, One Dr. Carlton B. Goodlett Place.

Please note that the filing of a Jurisdiction Request **DOES NOT** suspend work on the subject permit(s). However, if the Board grants the Jurisdiction Request on the above – referenced date of consideration (4 out of 5 votes required), **a new five (5) - day appeal period shall be created which ends on the following Monday**, and the subject permit(s) shall then be suspended upon the filing of a formal appeal, and until the Board of Appeals decides the matter and releases a notice of decision and order.

Pursuant to Article V, § 10 of the Board Rules, the **RESPONSE** to the written request for jurisdiction must be submitted by the permit/variance/determination holder(s) or Department no later than 10 days from the date of filing, on or before **Sept. 22, 2014**, and must not exceed six (6) pages in length, double-spaced, with unlimited exhibits. An original and 10 copies shall be submitted to the Board office by 4:30pm, with additional copies delivered to the opposing parties the same day. It is the general practice of the Board that only up to three (3) minutes of testimony for each party will be allowed. If you have any questions, please call (415) 575-6880.

Sincerely,

BOARD STAFF

cc: Dept. of Building Inspection, Planning Dept. (if applicable), & Requestor(s) w/o enclosures

Jaime Carrillo, Requestor
c/o Raquel Fox, Attorney for Requestor
126 Hyde Street, 2nd Floor.
San Francisco, CA 94102



City & County of San Francisco
BOARD OF APPEALS

Date Filed:

BOARD OF APPEALS

SEP 12 2014

APPEAL #

JURISDICTION REQUEST

Date of request: **September 12, 2014.**

Jaime Carrillo, (requestor(s)) hereby seeks a new appeal period for the following departmental action: **ISSUANCE** of **Alteration Permit BPA NO. 2014/07/16/1400** by **Department of Building Inspection**, issued to: **Timothy Gillihan**, for property at **843 Capp Street**, that was issued or became effective on **August 15, 2014**, and for which the appeal period ended at close of business on **Sept. 02, 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 September 22, 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: Jaime Carrillo

Jaime Carrillo
Signature of Requestor or Agent

1 JAIME D. CARRILLO
2 843 Capp Street
3 San Francisco, CA 94110
4 Telephone: (415) 826-2152

5 Tenant in Pro Per

BOARD OF APPEALS

SEP 12 2014

BOARD OF APPEALS

APPEAL # 

8 TENANTS AT 834 CAPP STREET)

9) **REQUEST FOR JURISDICTION**

10 vs.)

10) **Permit No. 2014/07/16/1400**

11 Department of Building Inspection,)
12 et al.)

11) **Property: 843 Capp Street, San Francisco**

14 I.

15 **INTRODUCTION**

16 For the past thirty one years, 843 Capp Street, the upper unit at 843-843A Capp
17 Street, San Francisco ("SUBJECT PREMISES") has been the home of Jaime D.
18 Carrillo. Over the years, Mr. Carrillo has had different roommates reside with him in
19 843 Capp Street, a spacious two bedroom Victorian flat.

20 The downstairs flat—843A Capp Street, is currently occupied by the new owners
21 of the SUBJECT PREMISES. They evicted the former tenants from 843 A Capp Street
22 in June 2014 for alleged owner-occupancy.

23 The present request for jurisdiction is brought so that the tenants can file an
24 appeal to Revoke the permit: (1) Permanently remove (a dwelling unit) 843 Capp Street
25 from the limited stock of affordable housing; (2) merge 843 Capp Street and 843 A
26 Capp Street into a single family; (3) eliminate cultural and ethnic diversity from the
27 Mission district; and (4) displace low income tenants from their home. Tenant Jaime D.

28 REQUEST FOR JURISDICTION

1 Carrillo has resided in 843 Capp Street for 31 years. The Tenants do not want to lose
2 their home, which is part of the stock of affordable housing.¹

3 **A. Parties and Permit**

4 **1. Tenants**

5 Jaime D. Carrillo and his roommates [hereinafter "TENANTS"] reside at the
6 residential rental property –843 Capp Street located at SUBJECT PREMISES. The
7 original tenant Jaime D. Carrillo has resided at 843 Capp Street for the past 31 years.
8 The low income TENANTS pay below market rate rent (\$1002.98) for their rent-
9 controlled affordable two-bedroom home at the SUBJECT PREMISES.

10 **2. Permit Holder**

11 Permit holders purchased SUBJECT PREMISES in approximately April 2014
12 and have systematically evicted or sought to evict their tenants. In June 2014, they
13 evicted the tenants residing in 843A Capp Street and now Permit holders have served
14 TENANTS with a notice of termination of tenancy based on the Permit (removal of
15 their flat from housing use). TENANTS seek to prevent permanent displacement from
16 their affordable home by having the Permit revoked.

17 **3. Permit**

	201407161400
18 Form Number:	8
19 Address(es):	3642/056/ 0 843 CAPP ST
20 Description:	REVERT PROPERTY BACK TO LAST LEGAL USE AS A
21	SINGLE FAMILY DWELLING UNIT. REMOVE ILLEGAL
22	

23 ¹ The Board of Appeals discretion over permits "includes the power to determine whether a proposed project will
24 'affect the public health, safety or general welfare.'" (*Guinnane V. San Francisco City Planning Commission*
25 (1989) 209 Clap. 3d supra at p. 739, citing *Lindell Co. v. Board of Permit Appeals* (1 943) 23 Cal.2d 303.) In the
26 instant case, the Permit will affect the general welfare of San Francisco by reducing the quality of life for
27 Appellants creating intolerable living condition during the construction. Additionally, Appellant John Tynan and
28 maybe the other two, will be served with notices of termination of tenancy to conduct work. If the **Board does**
not revoke this Permit, it will result in the permanent loss of affordable housing. Objective 10 of the
Residence Element of the City's General Plan is "to protect the existing affordability of housing" and Policy 1 of
Objective 10 is to "preserve affordability of existing affordable units." (S.F. General Plan, Residence Element,
Obj. 10.) San Francisco Planning Code Section 101.1 (also known as Proposition M) establishes the City's
Priority Policies, including Policy 3 "that the City's supply of affordable housing be preserved and enhanced."
(S.F. Plan. Code §101.1.)

1 KITCHEN ON 2ND FL. REMOVE DIVINDING WALL AT
2 1ST FL HALLWAY. REPLACE ENTRY DOORS. LEGAL
3 USE AND OCCUPANCY DETERMINED BY A REVIEW OF
4 CITY RECORDS

5 Cost: \$500.00
6 Occupancy Code: R-3
7 Building Use: 27 - 1 FAMILY DWELLING

8 **II.**

9 **BOARD OF APPEAL RULE 10 GOVERNING REQUEST OF REQUEST FOR**
10 **JURISDICTION**

11 **Section 10. Jurisdiction Requests.**

- 12 (a) After the appeal period has expired, the Board lacks jurisdiction over a
13 matter except in extraordinary cases where the Board finds that the City
14 intentionally or inadvertently caused the requestor to be late in filing the
15 appeal.

16 **III.**

17 **A. NO NOTIFICATION AND NO PLANNING DEPARTMENT REVIEW**

18 In the instant case, the City issued the Permit (that seeks to remove a dwelling
19 unit from house using) over the counter and without any review from the Department of
20 Planning. The City should have also required review from the Department of Planning
21 because the Permit seeks to remove a dwelling unit occupied by TENANTS from
22 housing use and thus, from the limited stock of affordable housing.

23 Moreover, the City inadvertently failed to mail structural notification letters after
24 the Permit issued on August 15, 2014, which caused TENANTS to be late in filing an
25 appeal. They simply did not know the Permit had issued and thus, took no steps to
26 appeal it.

27 Here, the Permit seeks to structurally change the configuration of the SUBJECT
28 PREMISES and to permanently remove 843 Capp Street --upper level, two bedroom
flat—that is **tenant-occupied**, from the limited stock of affordable housing. If the City

1 had mailed a structural notification letter providing notice of the issuance of the Permit,
2 the TENANTS could have and would have timely filed an appeal of the Permit.

3
4 **1. Definition of Structural Alterations**

5 Planning Code Sec. 102.27. STRUCTURAL ALTERATIONS states:

6
7 “Any change in the supporting members of a building,
8 such as bearing walls, columns, beams or girders.”

9 Here, the Permit application states in pertinent part” Remove the dividing
10 wall in hallway and remove entry doors.....” Undoubtedly removing the dividing wall
11 and converting the two flats (843 Capp Street—two bedroom flat and 843A Capp
12 Street) into a single family home should have triggered planning review and
13 notification.

14 **IV.**

15 **CONCLUSION**

16 As stated above, the City issued the Permit over the counter and there was no
17 review by the Planning Department of the Permit to remove TENANTS’ home (a
18 dwelling unit) from housing use and from the limited stock of affordable housing.
19 Moreover the City did not send out structural notification letters. To compound
20 problems, Permit Holders did not post any “notice of application for permit
21 No.2014/07/16/1400) at the SUBJECT PREMISES. Nor did the Permit Holders, at
22 any time reach out to the TENANTS to let know them know they had applied for a
23 permit to remove their home from housing use. The TENANTS did not take any action
24 regarding this underlying Permit because they did not know about it. For reasons stated
25 above, TENANTS respectfully request jurisdiction to file an appeal

26 Dated: September 10, 2014

27
28

Jaime D. Carrillo
Tenant in Pro Per

AUG 15 2014

Tom C. Hill
TOM C. HILL S.E.
DIRECTOR
DEPT. OF BUILDING INSPECTION

APPROVED FOR ISSUANCE

BLDG. FORM 3/8

APPLICATION NUMBER
211072161400

OSHA APPROVAL REC'D
APPROVAL NUMBER

APPLICATION FOR BUILDING PERMIT ADDITIONS, ALTERATIONS OR REPAIRS

FORM 3 OTHER AGENCIES REVIEW REQUIRED

FORM 8 OVER-THE-COUNTER ISSUANCE

2 NUMBER OF PLAN SETS

CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF BUILDING INSPECTION

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF BUILDING INSPECTION OF SAN FRANCISCO FOR PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS SUBMITTED HERewith AND ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE HEREINAFTER SET FORTH.

DO NOT WRITE ABOVE THIS LINE

DATE FILED 7-16-14	FILING FEE RECEIPT NO. 3	STREET ADDRESS OF JOB 843 Capp Street	BLOCK & LOT 3642/056
PERMIT NO. 1333349	ISSUED 8-15-14	ESTIMATED COST OF JOB \$500	(28) REVISED COST: 5000 BY: me DATE: 8/15/14

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING					
(4A) TYPE OF CONSTR. 5	(5A) NO. OF STORIES OF OCCUPANCY 2	(6A) NO. OF BASEMENTS AND CELLARS 0	(7A) PRESENT USE Residential	(8A) OCCUP. CLASS R3	(9A) NO. OF DWELLING UNITS 1
DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION					
(4) TYPE OF CONSTR. 5	(5) NO. OF STORIES OF OCCUPANCY 2	(6) NO. OF BASEMENTS AND CELLARS 0	(7) PROPOSED USE (LEGAL USE) Residential	(8) OCCUP. CLASS R3	(9) NO. OF DWELLING UNITS 1
(10) IS AUTO RUNWAY TO BE CONSTRUCTED OR ALTERED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(11) WILL STREET SPACE BE USED DURING CONSTRUCTION? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(12) ELECTRICAL WORK TO BE PERFORMED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(13) PLUMBING WORK TO BE PERFORMED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		
(14) GENERAL CONTRACTOR <i>Aidan McCook</i>	ADDRESS TBD	ZIP 94103	PHONE 650 367 8774 601 962	CALIF. LIC. NO.	EXPIRATION DATE
(15) OWNER - LESSEE (CROSS OUT ONE) Timothy Gillman	ADDRESS 843 Capp St	ZIP 94110	BTRC#	PHONE (FOR CONTACT BY DEPT.) 415 264 7245	
(16) WRITE IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT SUFFICIENT)					
To revert this property back to the last legal use as a Single Family Dwelling unit - Remove illegal kitchen on 2nd floor, remove dividing wall at 1st floor hallway. Replace entry doors. Legal use & occupancy has been determined by a review of city records.					
ADDITIONAL INFORMATION					
(17) DOES THIS ALTERATION CREATE ADDITIONAL HEIGHT OR STORY TO BUILDING? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(18) IF (17) IS YES, STATE NEW HEIGHT AT CENTER LINE OF FRONT	(19) DOES THIS ALTERATION CREATE DECK OR HORIZ. EXTENSION TO BUILDING? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(20) IF (19) IS YES, STATE NEW GROUND FLOOR AREA SQ. FT.		
(21) WILL SIDEWALK OVER SUB-SIDEWALK SPACE BE REPAIRED OR ALTERED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(22) WILL BUILDING EXTEND BEYOND PROPERTY LINE? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(23) ANY OTHER EXISTING BLDG. ON LOT? (IF YES, SHOW ON PLOT PLAN) YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(24) DOES THIS ALTERATION CONSTITUTE A CHANGE OF OCCUPANCY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
(25) ARCHITECT OR ENGINEER (DESIGN <input type="checkbox"/> CONSTRUCTION <input type="checkbox"/> ADDRESS	CALIF. CERTIFICATE NO.				
(26) CONSTRUCTION LEADER (ENTER NAME AND BRANCH DESIGNATION IF ANY. IF THERE IS NO KNOWN CONSTRUCTION LEADER, ENTER "UNKNOWN") ADDRESS					

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.

No portion of building or structure or scaffolding used during construction is to be closer than 6'0" to any wire containing more than 750 volts. See Sec 395, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.

Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, cuts and fills, and complete details of retaining walls and wall footings must be submitted to this department for approval.

ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALS.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (22) OR (24).

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In drawings, all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX

<input checked="" type="checkbox"/> OWNER	<input type="checkbox"/> ARCHITECT
<input type="checkbox"/> LESSEE	<input type="checkbox"/> AGENT
<input type="checkbox"/> CONTRACTOR	<input type="checkbox"/> ENGINEER

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 damage 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 worker's compensation coverage under (i) or (ii) designated below, or shall indicate item (iii), (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 hereby affirm under penalty of perjury one of the following declarations:

- () I. I have and will maintain a certificate of consent to self-insure for worker's 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 worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:
Carrier _____
Policy Number _____
- () III. The cost of the work to be done is \$100 or less.
- () 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 worker's compensation laws of California. I further acknowledge that I understand that in the event that I should become subject to the worker's compensation provisions of the Labor Code of California and fail to comply herewith with the provisions of Section 3800 of the Labor Code, that the permit herein applied for shall be deemed revoked.
- (X) 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 worker's 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.

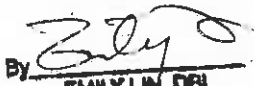





Signature of Applicant or Agent

Date

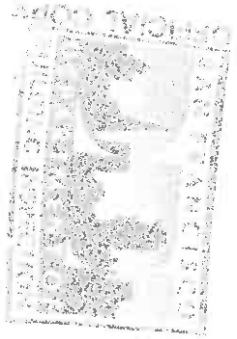
8/15/14

OFFICE COPY

CONDITIONS AND STIPULATIONS

REFER TO:	APPROVED:  By <u>EMILY LIN, DBI</u> AUG 15 2014 BUILDING INSPECTOR, DEPT. OF BLDG. INSP
<input type="checkbox"/>	APPROVED: APPROXIMATELY EXEMPT FROM ENVIRONMENTAL REVIEW  8/13/14 DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES
<input type="checkbox"/>	APPROVED:  BUREAU OF FIRE PREVENTION & PUBLIC SAFETY
<input type="checkbox"/>	APPROVED:  MECHANICAL ENGINEER, DEPT. OF BLDG. INSPECTION
<input type="checkbox"/>	APPROVED:  CIVIL ENGINEER, DEPT. OF BLDG. INSPECTION
<input type="checkbox"/>	APPROVED: BUREAU OF ENGINEERING
<input type="checkbox"/>	APPROVED: DEPARTMENT OF PUBLIC HEALTH
<input type="checkbox"/>	APPROVED: REDEVELOPMENT AGENCY
<input type="checkbox"/>	APPROVED:  HOUSING INSPECTION DIVISION

DATE: <u>7/16/14</u>
REASON: <u>On top progress</u>
NOTIFIED MR. _____
DATE: _____
REASON: _____
NOTIFIED MR. _____
DATE: _____
REASON: _____
NOTIFIED MR. _____
DATE: _____
REASON: _____
NOTIFIED MR. _____
DATE: _____
REASON: _____
NOTIFIED MR. _____
DATE: _____
REASON: _____
NOTIFIED MR. _____
DATE: _____
REASON: _____
NOTIFIED MR. _____



HOLD SECTION - NOTE DATES AND NAMES OF ALL PERSONS NOTIFIED DURING PROCESSING

I agree to comply with all conditions or stipulations of the various bureaus or departments noted on this application, and attached statements of conditions or stipulations, which are hereby made a part of this application.

Number of attachments

OWNER'S AUTHORIZED AGENT