

REHEARING REQUEST

BOARD OF APPEALS

Date
Filed: SEP 22 2014

John + Teresa
Votruba

(Name of Requestor)

Appellants APPEAL # 14-132 RR
(Indicate Standing: Appellant, Project Sponsor, DR Req. or Dept.)

seeks a rehearing of the aforementioned appeal which was decided on Sept. 10, 2014

This request for rehearing will be considered by the Board of Appeals on Wednesday, Oct. 08, 2014 at 5:00 p.m. in City Hall, Room 416, One Dr. Carlton B. Goodlett Place.

Pursuant to Article V, § 9 of the Board Rules, the **RESPONSE** to the written request for rehearing must be submitted by the other party or Department no later than **10 days from the date of filing, on or before** Oct. 02, 2014 and must not exceed six (6) pages in length, with unlimited exhibits. An original and ten (10) copies shall be submitted to the Board office with additional copies delivered to the other parties the same day.

You or your representative **MUST** be present at the hearing. Three (3) minutes of testimony from each party will be allowed. From the Board Rules, Article V, § 9: Except in extraordinary cases, and to prevent manifest injustice, the Board may grant a Rehearing Request only upon a showing that new or different material facts or circumstances have arisen, where such facts or circumstances, if known at the time, could have affected the outcome of the original hearing.

Based on the evidence submitted and the testimony, the Board will make a decision to either grant or deny your request. Four (4) votes are necessary to grant a rehearing. If your request is denied, a rehearing will not be scheduled and the decision of the Board is final, and the written notice of decision and order shall be released. If your request is granted, a rehearing will be scheduled, and the original decision of the Board will be set aside, and after the rehearing, a second decision will be made by the Board.

If you have any questions or concerns, please call this office as soon as possible at 575-6880 during regular business hours.

Address, Tel. & Fax:

218 Union #7
San Francisco, CA 94133
(415) 834-0508

[Signature]
Signature of Requestor or Agent

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

BOARD OF APPEALS

SEP 22 2014

APPEAL # 14-132
RR

Re: Rehearing Request (Appeal No. 14-132) and BPA 20111179101/ACOA 13.0092
Original Hearing Date: September 10, 2014

Dear President Lazarus and Commissioners:

Appellants write on September 19, 2014 to request a rehearing of the above Appeal for the following reasons which constitute new and different material facts and circumstances.

Buildable Area Review by Planning

1) Exhibit One is a Declaration of Survey for 280-284 Union regarding its height in conformance with Planning procedures. Dane Ince of the San Francisco Surveying Company and a California licensed surveyor shows 284-280 Union's roof to be two (2) feet over the 40 foot maximum limit in violation of the Planning Code. Additionally, plan details presented in BPA 20111179101 extend more than 3 inches over the 218 Union west property line and is an illegal encroachment. 218 Union rejects any encroachment over the property line.

On September 9, 2014, Planning Department staff confirmed this surveyor's methodology in establishing the building height. Because the methodology was unconfirmed by Planning before our briefing due date, Appellants were unable to fully rely upon it. Information presented in our brief was not presented with this methodology.

2) Appellants presented significant factual information regarding buildable area and building structures without a "CFC" (Certificate of Final Completion) built *beyond*

the scope and requiring buildable area review. Without the presentation of true facts of the 284-280 Union height, site, natural grade, and permit as exceeding *in kind* replacement, the administrative and the commission process is inadequate to do more than provide rubber stamp service to disinformation. Patrick O’Riordan and Joseph Duffy have chosen to not properly report actual conditions and have failed to note deficiencies and omissions in the plans that have received a CFC. The Board asked direct and purposeful questions on the CFC issues and were misled on September 10th.

3) Contrary to what was presented during questioning on September 10th by Patrick O’Riordan to the Commissioners, John Votruba in conversation with Patrick O’Riordan in January 2014 was told that a 3rd party had brought the *non permitted, built beyond the scope* status of the 2nd penthouse stairway to DBI’s attention, and it was now accepted to be the situation. Ilene Dick, then attorney for Bushra Khan, had already acknowledged the same to Teresa Votruba after a Director’s Hearing in August, 2013.

4) Permit Holders in their presentation confusingly argued to the Commissioners that roof construction will not affect Mr. Clinton Choy’s deck described by them and DBI as a rear yard. The rear yard is actually a concrete deck which affects the building area on the roof (see Exhibit 2). Planning requires setbacks of 45% in conditions where the garage extends to the rear property line. Mr. Choy’s concrete deck extends 17.5 feet over the roof of this garage. This reduces the buildable area on the roof to the area 31.5 ft. from the rear property line. The architect has shown this to be 17.5 ft. or a setback of 25%.

This evidence was not produced at the original hearing because Appellants could not have known that DBI would misrepresent the character of the rear yard.

Ethical Consideration for the Appeals Board as per Grand Jury Recommendations

5) Unethical behavior occurs in city departments such as DBI, because there is a culture of protection among building inspectors. Thematically speaking according to the recently released 2013-2014 Grand Jury Report, there is no staff authority with proper credentials within this and other departments to deal with ethics violations.

These findings presented to the SF Ethics Commission in testimony on August 18, 2014 by the 2013-2014 Grand Jury Foreperson are in keeping with Appellants' experience with DBI. Rather than paraphrase her remarks, Appellants refer the Commissioners to her comments which are found as the second speaker in the meeting on August 18th in video format at SF Gov TV.

6) In Appellants' experience, significant DBI mistakes were made in 2010 in a) evaluation of incomplete and fraudulent plans by Joseph Duffy and b) evaluation of 218 Union neighbor complaints against Bushra Khan and Clinton Choy related to illegal removals, unsafe roof, and permitting of features which should have had neighborhood notification. It is the same neighborhood notification that should occur with BPA 201111179101, so that site line issues relating to Coit Tower, the parapets and railings outside of buildable area, and the second non-permitted stairway and chimneys could be vetted to the neighborhood. 4 ½ years have elapsed since the parapet's complete removal without permit. City guidelines and practices have requirements for this situation which have not been met.

Joseph Duffy has asked Patrick O'Riordan and the Planning Department for special consideration for Bushra Khan and the other owners at 284-280 Union.

Teresa Votruba has overheard conversations between Messrs. Duffy and O'Riordan with this effect as its purpose and Clinton Choy has acknowledged Duffy's special assistance at two public meetings.

Parapet Wall

7) At the original hearing, Permit Holder misrepresented the extent of the 1987 CFC with respect to the requirement that it be a 1 hour rated wall 42 inches in height. Moreover it represents an additional encroachment over the property line.

Without the as built and as permitted in 1988 solid 42" 1 hour rated parapet, the designation as *in kind replacement* for BPA 201111179101 is a sham. The privacy and protection of this 42" wall are essential and required elements of the 1987 CFC, but was presented by Joseph Duffy as only requiring 30 inches in height. This constitutes a significant finding overlooked by the Board in examining the validity of DBI recommendations which HPC also said in the ACOA hearing were relied upon.

A parapet wall is by definition a solid wall. The code may only require 30 inches, but to be an *in kind replacement* (according to the 1987 deck permit) it must be 42 inches. Minimum code compliance is not the same as replacing what was there. The same standard and scope of work as in 1987 is also code compliant. The specificity of the 42 inch height of the parapet as well as other details of the the parapet's length and construction in the 1987 deck plans are clearly stated.

See BPA 8707964.

Permit Holder Clinton Choy received an approved permit for windows and decks on January 12, 1998 BPA 9711016S which expired August 9, 1999. Clinton Choy has instead denied the existence of other deck permits after 1987. This work

was done and was shown in Appellants' rebuttal as 2010 aerial photo of the actual 284-280 Union roof decks. (Exhibit 3 shows BPA 8707964 and BPA 9711016S)

8) As Commissioners will remember from the September 10th meeting, the building plans submitted to the Board on behalf of Permit Holder's counsel and DBI were neither issued nor approved as BPA 201111179101. When brought to the Board's attention by Appellants, Joseph Duffy and Patrick O'Riordan produced an incomplete inspection for the Appeals Board of the full approved and issued plan set for BPA201111179101.

This plan set was approved on May 6, 2014, but not issued until June 25, 2014. Clinton Choy waited 6 weeks to pick up the permit. This stalling has occurred frequently by Clinton Choy, not Appellants. Clinton Choy was provided a copy of the true issued plans and his counsel chose not to provide it to the Board, because other additional plan elements are inconsistent with an *in kind replacement*.

Patrick O'Riordan and Joseph Duffy misrepresented DBI at the hearing by not presenting the complete set of these approved plans. They needed to explain the purpose of the clouding around both interior 280 unit and roof penthouse features. With these additions, this permit is neither an *in kind replacement* nor properly vetted to the Board for non-disclosure of a variety of interior and exterior inclusions. Patrick O'Riordan lied when he said that all building features had a CFC. Neither second penthouse nor chimneys nor *as built* rear yard can be found in architectural drawings with CFC.

The plans approved and stamped at DBI have 2 pages, not one and have clouded features which Duffy and O'Riordan and Permit Holders counsel did not want the Board to view. It was not included in Permit Holders brief. DBI provided no brief. Then

appellants were given no rebuttal time as this presentation came too late in the hearing schedule.

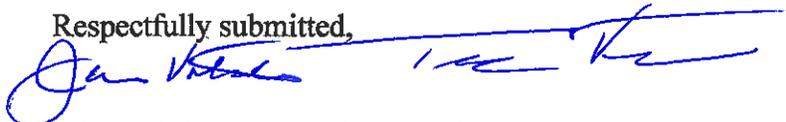
This true plan set of 2 pages is vital to the proceedings and cannot be dismissed as immaterial to facts of the permit. Permit Holders and Duffy and O’Riordan need to update the record factually with the actual issued 2 page BPA 20111117901 .

9) On September 10, 2014, when asked by Commissioners if there were any outstanding issues with DBI at 284-280 Union, Joseph Duffy and Patrick O’Riordan perjured themselves again by answering in the negative, when in fact, a 30 day Director’s Hearing Notice had been presented to Mr. Choy regarding an NOV # 2014744712 and a *built beyond the scope* complaint was also pending. (Exhibit 4)

Summary Remarks:

Throughout the period from the initial contact with DBI in June, 2010 and the filing of the illegal removal of the 42” parapet wall until the current time in 2014, there has been no site visit by the Department of Building Inspection or the Planning Department in which they investigated the facts of 284-280 Union buildable area or the 2010 demolition. In fact, they repeatedly refused to do this investigation in the company of the Appellants who had access to vantage points where the true conditions at 284-280 Union could be seen.

Respectfully submitted,



John and Teresa Votruba, Appellants
Dated: September 19, 2014

EXHIBITS

10/10/10
10/10/10
10/10/10

EXHIBIT #1

SAN FRANCISCO SURVEYING COMPANY

201 HARRISON STREET STE. 828
SAN FRANCISCO, CALIFORNIA 94105
PHONE 415-321-9300

EMAIL SURVEYOR@SANFRANCISCO SURVEYING COMPANY.COM
WWW.SANFRANCISCO SURVEYING COMPANY.COM

DECLARATION OF SURVEY RESULTS FOR 218 UNION STREET, S.F., CA.

BUILDING HEIGHT OF 280-284 UNION STREET

ACCORDING TO ONLINE PLANNING DATA, THE BUILDING AT 280-284 UNION STREET IS IN A BULK AND HEIGHT DISTRICT 40-X. THE MAP FILED IN BOOK 27 OF CONDOMINIUM MAPS AT PAGES 91-96 STATES THAT ELEVATIONS ARE BASED UPON THE BENCHMARKS AT UNION STREET AND MONTGOMERY STREET. ONLY ONE OF THE FIVE BENCHMARKS LISTED BY THE CITY FOR THIS INTERSECTION WAS RECOVERED. THE BENCHMARK THAT WAS RECOVERED AND USED TO EXAMINE THE BUILDING HEIGHT AT 280-284 UNION STREET IS DESCRIBED AS FOLLOWS:

INTERSECTION UNION ST. ; MONTGOMERY ST. SOUTHEAST CORNER + CUT SOUTH SIDE LOWER CONCRETE STEP ELEVATION= 218.619. APRIL 1961

THE DATA COLLECTED IS ROUNDED TO THE NEAREST FOOT BECAUSE THE CITY HEIGHT STANDARDS ARE BASED UPON A STATEMENT OF ROUND FEET. THE TOP OF CURB ELEVATION AT THE SOUTHERLY PROLONGATION OF THE WEST PROPERTY LINE IS 194. THE TOP OF CURB ELEVATION AT THE SOUTHERLY PROLONGATION OF THE EAST PROPERTY LINE IS 189. THE MIDPOINT BETWEEN THESE 2 ELEVATIONS IS 191.5, ROUNDED TO 192. THE PARAPET ELEVATION IS 237. THE DIFFERENCE BETWEEN THESE 2 ELEVATIONS IS 45.

ACCESS TO THE ROOF WAS NOT OBTAINED AND THEREFORE THE ACTUAL HEIGHT PER ORDINANCE WAS NOT DETERMINED. THE ACTUAL PARAPET HEIGHT PER THIS SURVEY IS 236.72 AS COMPARED TO A MEASURED HEIGHT OF 236.81 PER 27 CM 91-96. THE MAPPING FOR 27 CM 91-96 SHOWS AN UNIMPROVED ROOF ELEVATION OF 233.57. THE DIFFERENCE BETWEEN THESE TWO ELEVATIONS IS 3.24. THEREFORE AN ESTIMATED ROOF HEIGHT MAY BE OBTAINED AT 41.76 OR FOR PLANNING PURPOSES 42.

BUILDING LOCATION OF 280-284 UNION STREET

A DILIGENT SEARCH WAS MADE FOR MONUMENTS SET PER 27 CM 91-96 AND NONE WERE RECOVERED. SHEET 2 OF 6 OF 27 CM 91-96 SHOWS THE BUILDING AT 280-284 UNION STREET TO BE ACROSS THE LINE AT THE TOP OF THE BUILDING IN THE FRONT BY 0.20' AND 0.26' MEASURED TO SIDING IN THE REAR. THIS SURVEYOR FOUND NO EVIDENCE TO DISPUTE THIS FINDING AND IS IN AGREEMENT WITH THE MAPPED LOCATION AS SHOWN. FURTHER THE

SAN FRANCISCO SURVEYING COMPANY

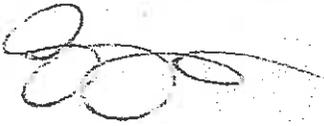
201 HARRISON STREET STE. 828
SAN FRANCISCO, CALIFORNIA 94105
PHONE 415-321-9300

EMAIL SURVEYOR@SANFRANCISCOSURVEYINGCOMPANY.COM
WWW.SANFRANCISCOSURVEYINGCOMPANY.COM

BUILDING LOCATION OF 280-284 UNION STREET

CONTINUED

OPINION OF THIS SURVEYOR IS THAT GENERALLY THE UPPER PORTION OF 280-284 IS OVER THE LINE BY 0.20' THROUGH OUT IT'S LENGTH AND THAT THE WINDOW TRIM EXTENDS BEYOND THE FACE OF BUILDING BY AN ADDITIONAL 0.06'. THE AVERAGE TOTAL BEING 0.26' OR APPROXIMATELY 3 INCHES.



DANE INCE LS 8142
DATED JULY 8, 2014



From:

Sent: 9/9/2014 12:33 PM

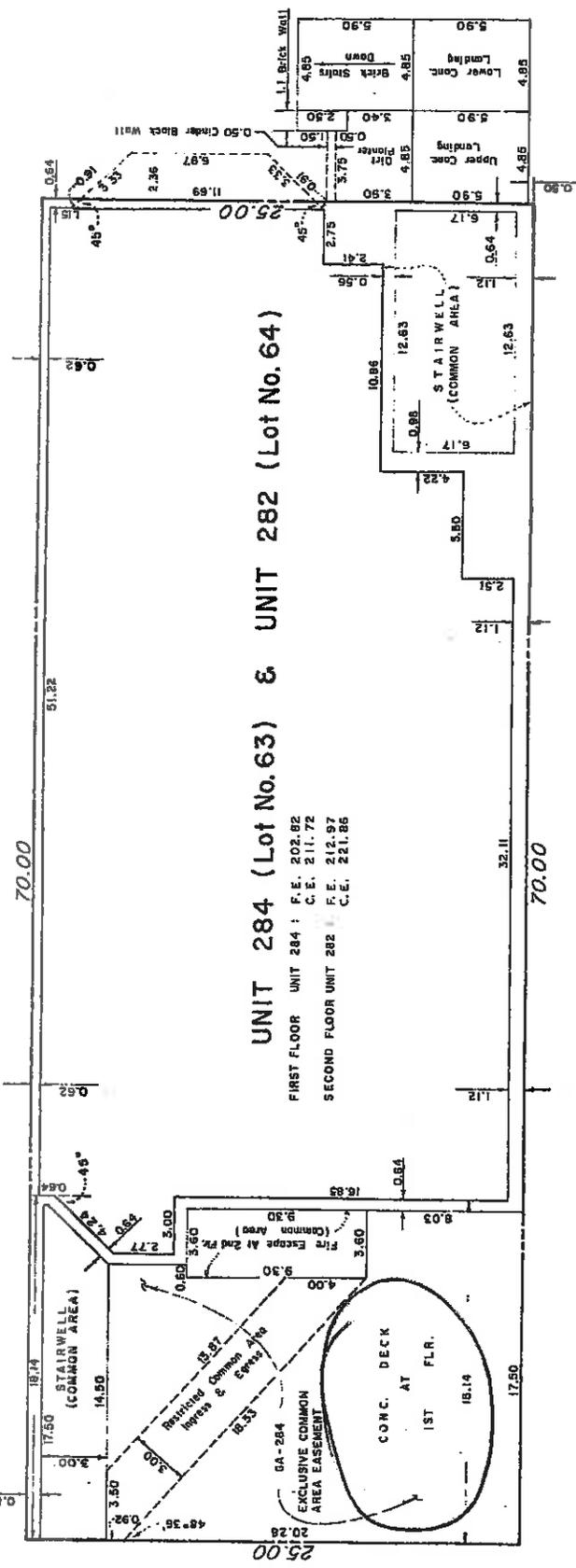
To:

Subject: roof height

I have spoken to no less than three different members of the planning department staff. I made a special trip this morning to planning to inquire about proper method. They have all confirmed the method for determining building height is to subtract the midpoint of the slope between 2 top of curb elevations from the elevation of the top of roof. I will mad a special trip to re-measure to confirm my previous opinion.

Dane Ince LS 8142
Certified Federal Surveyor, 1099
President of San Francisco Surveying Company, inc.
201 Harrison Street Ste 828
San Francisco, Ca. 94105-2058
phone 415-321-9300
fax 415-543-1915
www.sanfranciscosurveyingcompany.com

EXHIBIT #2



UNIT 284 (Lot No.63) & UNIT 282 (Lot No.64)

FIRST AND SECOND FLOORS

MAP OF
 280 - 284 UNION STREET
 A CONDOMINIUM
 SAN FRANCISCO, CALIFORNIA
 BEING A SUBDIVISION OF REAL PROPERTY
 ON A PORTION OF 50 VARA BLOCK NO. 44
 ALSO ASSESSOR'S BLOCK 106
 TRONOFF ASSOCIATES - LAND SURVEYORS
 500 PINE STREET SAN FRANCISCO
 392-3215
 FEBRUARY, 1987

SCALE: 1" = 4'



EXHIBIT #3

Permits, Complaints and Boiler PTO Inquiry

Permit Details Report

Report Date: 9/21/2014 10:54:16 AM
Application Number: 9711016S
Form Number: 3
Address(es): 0106 / 065 / 0 280 UNION ST
 0106 / 013 / 1 280 UNION ST
Description: REPLACE (E) WINDOWS,SKYLIGHTS,REROOF,ROOF DECK GUARDRAILS
Cost: \$50,000.00
Occupancy Code: R-1
Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
6/17/1997	FILED	
1/12/1998	APPROVED	
8/29/1998	CANCELLED	Issuance Expired
8/9/1999	EXPIRED	updated from ISS

Contact Details:

ERNIE SELANDER -

Contractor Details:

Addenda Details:

Description:

FINAL

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
1	CNT-PC	6/17/97	6/18/97	6/18/97		11/19/97	RW	415-558-6133	
2	CNT-CE	11/20/97	11/24/97	11/24/97		12/11/97	TOL	415-558-6133	
3	SFFD	12/18/97	12/18/97			12/18/97	TP	415-558-6177	
4	DPW-BSM	12/19/97	1/9/98			1/9/98	RC	415-558-6060	NO CHANGE TO CROW UNDER THIS PERMIT.]
5	CPB	1/12/98	1/12/98					415-558-6070	

Appointments:

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
0		15	05	WELDING	X

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](#)

Permits, Complaints and Boiler PTO Inquiry

Permit Details Report

Report Date: 9/21/2014 10:52:16 AM

Application Number: 8707964

Form Number: 3

Address(es): 0106/065/0 280 UNION ST
0106/013/1 280 UNION ST

Description: NEW ROOF DECK

Cost: \$8,200.00

Occupancy Code: R-1

Building Use: 24 - APARTMENTS

Disposition / Stage:

Action Date	Stage	Comments
6/9/1987	FILED	
11/9/1987	APPROVED	
11/18/1987	ISSUED	
7/27/1988	COMPLETE	

Contact Details:

Contractor Details:

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
0	CNT-CE					6/22/87		LOG OUT/NO WORK DONE;ROUTE BACK TO CNT-PC/REVISION
0	CNT-CE					10/14/87		
0	CNT-PC					6/17/87		
0	HIS					6/17/87		
0	CNT-PC					10/14/87		
0	CP-ZOC					11/5/87		
0	CPB					10/14/87		ROUTE BACK TO CNT-PC PER W.L.
0	CNT-PC					9/9/87		HELD OVER 60-DAYS/READY FOR CANCELLATION

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
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Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status
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Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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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.

EXHIBIT #4

Permits, Complaints and Boiler PTO Inquiry

COMPLAINT DATA SHEET

Complaint Number: 201474712

Owner/Agent: OWNER DATA SUPPRESSED **Date Filed:** 05/22/2014

Owner's Phone: -- **Location:** 284 UNION ST

Contact Name: -- **Block:** 0106

Contact Phone: -- **Lot:** 063

Complainant: COMPLAINANT DATA SUPPRESSED **Site:**

Rating:

Occupancy Code:

Received By: MASUNCION

Division: BID

Complainant's Phone:

Complaint Source: WEB FORM

Assigned to Division: CES

Description: date last observed: 20-MAY-14; time last observed: This is the third request for ; identity of person performing the work: original construction failure; floor: Siding, co; unit: 280, 284; exact location: Common Area; building type: Residence/Dwelling WATER INTRUSION; DILAPIDATED STRUCTURE; STRUCTURAL PROBLEMS; ; additional information: Urgent request for inspect by structural inspector;

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
CES	HINCHION	1125		

REFERRAL INFORMATION

DATE	REFERRED BY	TO	COMMENT
7/10/2014	Maria Asuncion	CES	Refer to Directors Hearing per D. Duffy for abatement.

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
05/22/14	CASE OPENED	BID	Power	CASE RECEIVED	
05/30/14	OTHER BLDG/HOUSING VIOLATION	CES	Duffy	CASE CONTINUED	Called complainant for appointment.
06/06/14	OTHER BLDG/HOUSING VIOLATION	BID	Duffy	CASE UPDATE	1st copy of NOV mailed by jj
06/06/14	OTHER BLDG/HOUSING VIOLATION	BID	Duffy	FIRST NOV SENT	1st NOV sent by DD
07/09/14	OTHER BLDG/HOUSING VIOLATION	INS	Duffy	SECOND NOV SENT	second NOV mailed by GPS on 7/9/14
07/10/14	GENERAL MAINTENANCE	BID	Duffy	REFERRED TO OTHER DIV	transfer to div CES
07/14/14	CASE OPENED	CES	Hinchion	CASE RECEIVED	
08/13/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	ASSESSMENTS DUE	monthly violation monitoring (6/6/14-8/6/14)
08/13/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	CASE UPDATE	case review,scheduling and data entry
08/13/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	CASE UPDATE	research title and prepare case for directors hearing
08/13/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	CASE UPDATE	researched permit history/status
08/13/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	CASE UPDATE	case reviewed and approved for directors hearing (9/2/14)
08/15/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	CASE UPDATE	case update and data entry
08/15/14	OTHER BLDG/HOUSING VIOLATION	CES	Gunnell	DIRECTOR HEARING NOTICE POSTED	posted notice of directors hearing

COMPLAINT ACTION BY DIVISION

NOV (HIS): **NOV (BID):** 07/09/14
06/06/14

Inspector Contact Information

October 1, 2014

President Ann Lazarus
San Francisco Board of Appeals
1650 Mission Street – Room 304
San Francisco, CA 94103

RECEIVED

By chuang at 11:49 am, 10/2/14

Re: **Response to Rehearing Request – Appeal No. 14-132**
Hearing Date – October 8, 2014: BPA No. 201111179101/ACOA 13.0092

Dear President Lazarus & Commissioners:

We, the 280 Union Condominium Association as "Respondent", respectfully asks that the Board deny Appellants' rehearing request, as they have failed to meet the established standard for rehearing.

The Board Rules specify that a rehearing can only be granted "*...upon a showing that new or different material facts or circumstances have arisen, where such facts or circumstances, if known at the time, could have affected the outcome of the original hearing.*" (Board Rules, Article V, §9). The Board Rules further state that "*failure to exercise due diligence to produce the new facts and circumstances at the previous hearing shall be deemed grounds for denial of the request.*"

Appellants' request simply does not meet this standard, as it contains no new facts or circumstances that were unavailable at the September 10th hearing, but instead merely re-iterates items already raised and discussed at the hearing.

Below are our responses to the specific allegations raised in Appellants' request, which do not merit rehearing of this matter.

1. Buildable Area Review by Planning

Appellants' were already afforded ample opportunity to present their concerns regarding building height and area of our property at the September 10th hearing. As

President Ann Lazarus
San Francisco Board of Appeals
1650 Mission Street – Room 304
San Francisco, CA 94103
October 8, 2014 Re-Hearing Response / Page 2

discussed at that time, these issues were deemed unrelated to the scope of work under the approved permit, which involves only in-kind replacement of roof deck areas and a parapet wall, consistent with what was originally built at the property in the 1980s. No other floors of the building will be affected, and there will be no change in building height.

Accordingly, the September 9, 2014 Planning Department reference by Appellants regarding methodology to determine building height is unrelated to the limited scope of replacing the permitted roof deck and parapet wall.

At the September 10, 2014 hearing, Building Inspectors presented and affirmed 280-284 Union Street's original CFC (Certificate of Final Completion) with approved and permitted roof structures. The approved plan for the roof deck and parapet wall replacement has been fully vetted by the Planning and Building Departments. This review included confirmation that the project will not impact "buildable area" at the site.

For clarification, Mr. Choy's rear yard consists of a concrete patio and garden containing in-ground trees and plants. This space is not purely a concrete deck. No change will be made to this area as part of the project. It is unrelated to the current permit.

Finally, Ilene Dick, Attorney for Respondent Dr. Bushra Khan, has informed us that she never discussed penthouse issue with Appellant Teresa Votruba. Appellant's statement, to the contrary, is false.

2. Ethical Consideration for the Appeals Board

This section of Appellants' brief contains no new material facts or circumstances that could meet the Board's standard for rehearing.

Moreover, no special assistance from Inspectors was ever sought by us. In contrast, we have undergone the rigors of complying with Planning and Building Department planning reviews; promptly resubmitted amended plans as required for code compliance; and finally secured an Administrative Certificate of Appropriateness confirming that the work will not negatively impact the surrounding historic district. Furthermore, the DBI billed us for excessive staff overtime required to review our project. We paid the added expenses as required. Once more, no changes will be made to existing roof structures, which again are contained in the CFC.

3. Parapet Wall

The parapet wall specifications and purpose are clear on the approved plans. We will rebuild parapet wall as approved and permitted, in compliance with all applicable Code requirements. We will not alter this design in response to Appellants' own version of specifications and purpose.

Appellants' accusation that we deliberately delayed our own project is also untrue. The elapsed time between plan approval and permit issuance referenced by Appellants was needed for us to hire an alternate contractor upon learning original contractor could not perform. For liability reasons, the permit is issued under our new contractor's license and

bond. In reality, Appellants have successfully delayed permit issuance via numerous filed complaints and appeals. Their actions are the major cause of project delay.

4. Approved Plans

Due to the Board's focus on the layout and design of roof deck and parapet wall features during the September 10th hearing, only the first page of the project's approved plan, which shows the full scope of work at the roof, was presented to the Board at that time.

The second page of the approved plan set (referenced in Appellants' brief), is attached to this document as Exhibit A. This second page was required by the San Francisco Fire Department (SFPD), to ensure adequate emergency access and that no modifications are made to the stair access between top-floor unit to roof via one penthouse and between the building's common corridor to roof via the other penthouse. These requirements are satisfied and SFPD approved the plan sheet.

The second page does not show any changes to the permit's scope of work. In addition, it was not intentionally omitted from hearing materials and is not evidence of any misrepresentation by us or DBI. Instead, this information was available at the time of the hearing, and could have been provided by either party if requested. Accordingly, this does not constitute new material facts or circumstances meeting the Board's standard for rehearing. The summary of work proposed under the permit was accurately described to the Board at the September 10, 2014 hearing.

5. Summary Remarks

Appellant's allegation that there has been "no site visit by the DBI Inspection or the Planning Department" is also inaccurate. Inspectors visited our property to inspect demolition of roof & roof deck/parapet wall and re-roofing at the time of repair. HPC representative made a site visit. And even more regularly, Inspectors came to investigate the numerous complaints filed by Appellants. Inspector Robert Powers most recently conducted a pre-job inspection with our contractor on July 1, 2014.

6. Conclusion

Appellants' request does not contain any new material facts or circumstances meeting the Board's standard for rehearing. The issues raised by Appellants are largely unrelated to the work under this permit, which involves an in-kind replacement of roof deck areas and parapet wall, consistent with what was originally built at the property in the 1980s. Instead, Appellants continue to re-submit previously dismissed issues, needlessly delaying the start of our approved project.

For these reasons, we urge the Commission to reject Appellants' rehearing request and allow us to finally enjoy our roof deck.

Thank You,



Clinton P. Choy
President – 280 Union Condo Association

President Ann Lazarus
San Francisco Board of Appeals
1650 Mission Street - Room 304
San Francisco, CA 94103
October 8, 2014 Re-Hearing Response / Page 6

Commissioner Frank Fung
Commissioner Darryl Honda
Cynthia Goldstein, Board of Appeals
Clint Choy, et al, Respondents
John & Teresa Votruba, Appellants

President Ann Lazarus
San Francisco Board of Appeals
1650 Mission Street - Room 304
San Francisco, CA 94103
October 8, 2014 Re-Hearing Response / Page 7

Exhibit A

Kocsa/
Pantaleoni
Architects
1000 S. F STREET
SAN FRANCISCO, CA 94108
415.774.1100

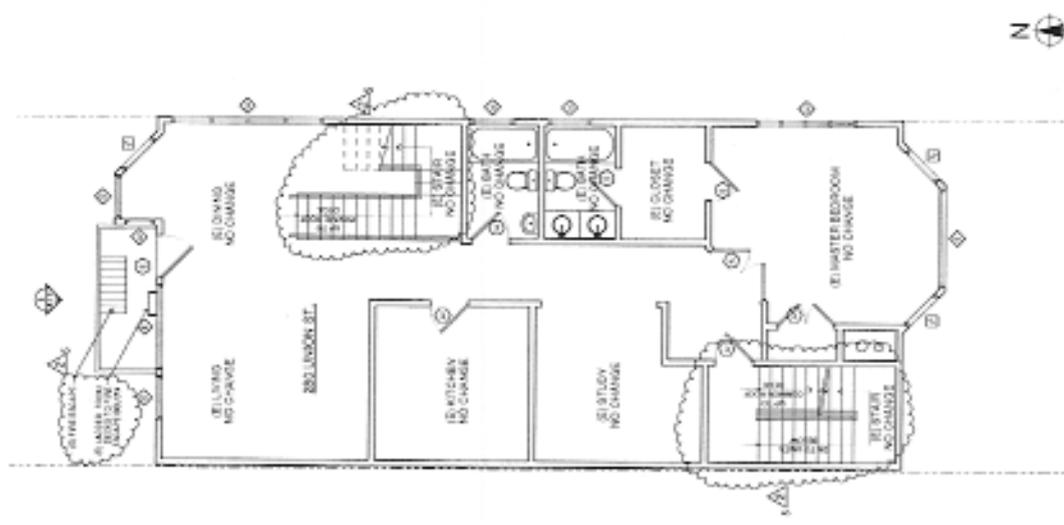
NO.	DATE	DESCRIPTION
1	11.15.17	ISSUED FOR PERMIT
2	01.10.18	ISSUED FOR PERMIT
3	02.21.18	ISSUED FOR PERMIT
4		
5		

ROOF DECK "IN-KIND" REPLACEMENT
280 - 284 UNION STREET
SAN FRANCISCO, CA 94127

Sheet No.
S18 & C18
S18 & C18
S18 & C18

NO.	DATE	DESCRIPTION
1	11.15.17	ISSUED FOR PERMIT
2	01.10.18	ISSUED FOR PERMIT
3	02.21.18	ISSUED FOR PERMIT
4		
5		

A1.1
PERMIT SET



3
1
1/4" = 1'-0"
3rd Floor