Date: November 30, 2010

Item No. 16 & 17
File No. 10053

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Jim Flannery v Department of Public Health**
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

Completed by: Chris Rustom **Date:** Nov. 23, 2010

***This list reflects the explanatory documents provided**

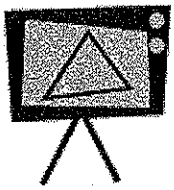
~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

<complaints@sfgov.org>
10/12/2010 09:38 AM

To <sotf@sfgov.org>
cc
bcc
Subject Sunshine Complaint

To:sotf@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:Department of Public Health
CONTACTED:Amanda Smith, Karen Yu, Joe Walseth
PUBLIC_RECORDS_VIOLATION:Yes
PUBLIC_MEETING_VIOLATION:No
MEETING_DATE:
SECTIONS_VIOLATED:
DESCRIPTION:I have repeatedly requested information and documents regarding a "Notice to Abate lead hazards" in my apartment issued by DPH. They have refused and even stated I would need a subpoena to obtain crucial information that directly affects my home and health.
HEARING:Yes
PRE-HEARING:Yes
DATE:
NAME:
ADDRESS:
CITY:
ZIP:
PHONE:
CONTACT_EMAIL:
ANONYMOUS:flanneryjim@yahoo.com
CONFIDENTIALITY_REQUESTED:No



Eileen Shields/DPH/SFGOV
10/19/2010 02:21 PM

To SOTF/SOTF/SFGOV@SFGOV
cc Amanda Smith/DPH/SFGOV@SFGOV, Joe Walseth/DPH/SFGOV@SFGOV, Karen Yu/DPH/SFGOV@SFGOV
bcc
Subject Re: Sunshine Complaint Received: #10053_Jim Flannery vs Dept. of Public Health

TO: SOTF

The Department of Public Health does not dispute SOTF jurisdiction over this matter. However, DPH disputes the complainant's statement of facts. DPH has provided Mr. Flannery with all the documents he has requested in a timely manner. We have never suggested he would need a subpoena to receive documents. We hope that the SOTF asks Mr. Flannery to show documented evidence to support his egregious claims against DPH staff - he will be unable to produce these documents, because his claims are false.

After a series of requests for documents--all of which were fulfilled-- Mr. Flannery was appropriately directed to the Public Information Office. The PIO's office is tasked with coordinating all public information requests that come into DPH. This referral was not a denial of records; but rather it was redirecting Mr. Flannery to file public records requests through the proper channels. Prior to his referral to the PIO, Mr. Flannery had received every record he asked for from Ms. Smith, Ms. Yu and Mr. Walseth. This complaint is without merit.

We will send a number of representatives from this Department to the hearing on November 20 and hope that the SOTF will base its outcome on documentation, verifiable statements and a sensitivity to abuse of public servants.

Eileen Shields
Public Information Officer
San Francisco Department of Public Health
415/554-2507

Eileen Shields/DPH/SFGOV
11/17/2010 01:40 PM

To Chris Rustom/BOS/SFGOV@SFGOV
cc Amanda Smith/DPH/SFGOV@SFGOV, Karen Yu/DPH/SFGOV@SFGOV, Joe Walseth/DPH/SFGOV@SFGOV
bcc
Subject Re: #10053_Jim Flannery vs Dept. of Public Health

Dear SOTF:

We submit the attached series of e-mails between Mr. Flannery & Ms. Smith in support of the Department's responses to Mr. Flannery's many requests. In his complaint, Mr. Flannery does not provide any details regarding the specific documents he claims he has not received. A thorough reading of the e-mail's provided will show that indeed, Mr. Flannery has been well served by this Department and by Ms. Smith and records indicate that he has received numerous documents, prompt attention to his interrogatories and explanations for procedures and clarification of policies. In his own e-mail of 8/30, he writes to Ms. Smith: "Thanks for the clarification. I have so much paperwork from DBI, management and lawyers regarding this issue that it is sometimes hard to keep track."

The record should also reflect that Mr. Flannery's exchanges with Ms. Smith were at times requests for clarification and other times requests for records. As a courtesy, Ms. Smith sent him records directly. At no time was he denied records, nor did anyone indicate he would need a subpoena for records. Due to the robust nature of his repeated requests for information , he was asked to contact the Public Information Office for future records, as per the Sunshine Ordinance requirements to identify a point person to serve this function. He did not contact this office until October 13, 2010. He filed his complaint on October 12, 2010.

This Department will have a number of representatives attend this hearing to refute these specious and unfounded accusations.

FlanneryVsDPH1.pdf FlanneryVsDPH3.pdf FlannerVsDPH2.pdf

jim flannery
<flanneryjim@yahoo.com>
08/30/2010 01:36 PM

To amanda.smith@sfdph.org
cc
bcc
Subject question regarding phone conversation

History: This message has been replied to.

Hi,

In our phone conversation shortly after 1:00 p.m. today, you mentioned that the Landlord had not provided you with the details of the job yet. What is this notification requirement officially called?

Also, you said something about the Landlord being delinquent for something else but I don't recall the exact wording. Do you happen to remember what I am referring to?

Will I be notified after you have the details of the scope of the work? I asked the Landlord for details regarding what work will be performed and what part of the Premises I need to prepare, but they refuse to provide any details.

Thanks,
Jim

jim flannery
<flanneryjim@yahoo.com>
08/30/2010 02:20 PM

To Amanda Smith <Amanda.Smith@sfdph.org>
cc
bcc
Subject Re: question regarding phone conversation

Thanks for the clarification. I have so much paperwork from DBI, management and lawyers regarding this issue that it is sometimes hard to keep track.
-Jim

From: Amanda Smith <Amanda.Smith@sfdph.org>
To: jim flannery <flanneryjim@yahoo.com>
Sent: Mon, August 30, 2010 2:07:01 PM
Subject: Re: question regarding phone conversation

James, if you read the Notice to Abate it has all of the requirements listed. A landlord is to submit the contractors certifications and scope of work to us within 10 days of the issue date of the Notice to Abate. If the certifications and scope of work is not received by the date given, we send out a letter of delinquency stating that the property owner is delinquent in providing us the required material. I have since spoken to Amore property management and got confirmation that they will fax over the scope of work and certifications of the chosen contractor. And we do not typically notify the tenant upon receiving this information. I hope this has answered your questions, please let me know if there is anything further.

Thank you.

Amanda Smith
San Francisco Department of Public Health
Environmental Health Section
1390 Market Street Suite 210
San Francisco, CA 94102
Phone: (415) 252-3941
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org

jim flannery
<flanneryjim@yahoo.com>
08/30/2010 04:11 PM

To amanda.smith@sfdph.org
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject notification of affected tenants

History: This message has been replied to.

Ms. Smith,

In your previous email you stated you do not typically notify the tenant upon receiving this information.

However, in the Notice to Abate it states "Please provide a copy of the signed contract with the scope of work to the Health Department and to the affected tenant(s)."

I have requested the details regarding the scope of work many times but the landlord has always refused my reasonable requests.

Please be sure the landlord fulfills this obligation so I can plan my schedule as well as know when and where to move my belongings and make other necessary arrangements.

Thanks,
James Flannery

jim flannery
<flanneryjim@yahoo.com>
08/31/2010 09:04 AM

To Ron Schivo <ron@zulpc.com>, lenvin@zulpc.com
cc Julie Flannery-Allen <flanneryallen@yahoo.com>, David Herring <David.Herring@sfgov.org>, amanda.smith@sfdph.org
bcc
Subject lead abatement prohibited for now

TAKE NOTICE that the landlord is in violation of the requirements of the Notice to Abate.

Amanda Smith from DPH informed me yesterday that the Landlord is delinquent in their required duty to inform DPH AND the TENANT of the details of the scope of the project. It was to be provided NO LATER THAN Aug 24, 2010.

Therefore, any related lead abatement work is prohibited from commencing on the Premises until this requirement is fulfilled and proper formal notice is given to the Tenant.

This is in addition to any other instances where the Landlord has failed to follow code and procedure.

-James Flannery

jim flannery
<flanneryjim@yahoo.com>
09/07/2010 08:00 AM

To Amanda Smith <Amanda.Smith@sfdph.org>
cc Julie Flannery-Allen <flanneryallen@yahoo.com>, David Herring <David.Herring@sfgov.org>
bcc
Subject Re: notification of affected tenants

History: This message has been replied to and forwarded.

Ms. Smith, Please reread the HUD guidelines you linked to. In Chapter 8, page 11 of the June 1995 version of the Guidelines for The Evaluation And Control of Lead-based Paint Hazard in Housing, relocation for my circumstances is clearly mandated since there is more than 10 square feet being disturbed in each room of the Premises. This can be confirmed by DBI Inspector Herring.

Pleases notice that Level 4 is defined as "Any interim control or abatement method disturbing more than10 square feet per room." Resident Location for level 4 is "Outside the dwelling for duration of project; cannot return until clearance has been achieved."

Also notice that on page 8-7 it unambiguously states: "If bathrooms are not accessible, residents should **always** be relocated during the day (Table 8.1, Level2 at a minimum) unless alternative arrangements can be made (e.g., use of a neighbor's bathroom). In addition, if construction will result in other hazards (such as exposed electric wires), then residents should also be relocated."

Thank you for your cooperation in ensuring that I have a safe and healthy dwelling unit as required by CCSF code.

Sincerely,
James Flannery

From: Amanda Smith <Amanda.Smith@sfdph.org>
To: jim flannery <flanneryjim@yahoo.com>
Cc: Joe Walseth <Joe.Walseth@sfdph.org>; Karen Yu <Karen.Yu@sfdph.org>
Sent: Fri, September 3, 2010 11:26:44 AM
Subject: Re: notification of affected tenants

Mr. Flannery,

The owner or lead professional can submit a copy of the scope of work to you if you request it. However, I have attached a copy of it for you at the end of this email. I have spoken to both your landlord and the Lead Supervisor that is going to perform the lead abatement work in your unit

and everyone seems to be on track with all of the areas that need to be abated upon my Notice to Abate dated August 11, 2010. As for the notification of entry, the landlord will give you a notice of 3 business days to begin work in your unit. Please also note that if you are obstructing the entry of your unit after proper notification then you too are held responsible for the abatement of the lead hazards as the current tenant occupying the unit.

I have also sent you a letter in response to your inquiries about relocation.

Thank you.

(See attached file: Scope of work.pdf)

(See attached file: Relocation response letter.doc)

Amanda Smith
San Francisco Department of Public Health
Environmental Health Section
1390 Market Street Suite 210
San Francisco, CA 94102
Phone: (415) 252-3941
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org

jim flannery
<flanneryjim@yahoo.com>
09/08/2010 07:46 AM

To Amanda Smith <Amanda.Smith@sfdph.org>
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject Re: notification of affected tenants

History: This message has been forwarded.

We do not agree with your assessment of this situation. Please tell us how we can appeal to a higher authority who might be more knowledgeable of the subject, or at least file a formal grievance. Thanks.

From: Amanda Smith <Amanda.Smith@sfdph.org>
To: jim flannery <flanneryjim@yahoo.com>
Sent: Tue, September 7, 2010 1:50:20 PM
Subject: Re: notification of affected tenants

Mr. Flannery,

I have reviewed the sections to which you have referred in the HUD Guidelines. The HUD Guidelines are not legal codes but are guidelines. In light of the fact that there are no children (who are most at risk for lead poisoning besides the contractors) currently living on the premises and the fact that the certified contractor will follow all lead-safe work practice requirements per the SF Building Code, the Health Department will not be issuing a notice to the landlord requiring relocation. Please direct all further inquiries regarding relocation to your landlord.

Thank you.

Amanda Smith
San Francisco Department of Public Health
Environmental Health Section
1390 Market Street Suite 210
San Francisco, CA 94102
Phone: (415) 252-3941
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org

jim flannery
<flanneryjim@yahoo.com>
09/09/2010 10:26 AM

To amanda.smith@sfdph.org
cc
bcc
Subject fromal request for lab results

History: This message has been replied to and forwarded.

Ms. Smith

Please provide the following documents, in accordance with the SF Sunshine Act.

We are formally requesting the original version of the laboratory reported results of the testing you conducted using the lead dust wiping protocol, as originally submitted to you by the lab.

Also, could you please inform us of the margin of error for the analytical method used?

Thanks,
Jim

sent on 9/10
See Smith e-mail

jim flannery
<flanneryjim@yahoo.com>

09/27/2010 07:40 AM

To David Herring <David.Herring@sfgov.org>, amanda.smith@sfdph.org, Karen.yu@sfdph.org, lenvin@zulpc.com, Ron Schivo <ron@zulpc.com>, jerry
cc Julie Flannery-Allen <flanneryallen@yahoo.com>

bcc

Subject contractor not lead certified - violation

History: This message has been forwarded.

Inspectors and Landlords,

A non-lead certified contractor is disturbing lead paint in the apartment at 178 Church #1 today, 9/27/2010.

This is a violation of EPA, CA and CCSF laws and codes.

This is a violation of DBI NOV and DPH abatement requirements as well.

I have attached a few photos of the peeling paint left behind by Four Star. They were taken in the dining room on 9/26/2010.

As you can see, they did a very poor job and the tenant has been forced to live with this lead hazard job in progress for 11 days so far.

We informed Jerry of this last week, in person, but he failed to act.

Please order the Landlord to do the job properly and in accordance with laws and codes, and take necessary action to cease this violation and health hazard today.

Please inspect the unit in question as soon as possible today, 9/27/2010.

Thanks,
James Flannery


dining peel5.JPG


dining peel3.JPG


dining peel4.JPG


dining peel2.JPG


dining peel1.JPG


dining peel6.JPG

jim flannery
<flanneryjim@yahoo.com>
09/28/2010 01:06 PM

To Amanda Smith <Amanda.Smith@sfdph.org>, Joe Walseth <Joe.Walseth@sfdph.org>, Karen Cohn <Karen.Cohn@sfdph.org>, Karen Yu
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject Re: In response

NOT TRUE UNTIL MID-WAY INTO CONVERSATION.

Amanda Smith ordered me to leave my apartment by telephone on 9/15/2010. This conversation was recorded with Smith's knowledge and consent.

Later that morning, Karen Yu continued this phone conversation on behalf of Amanda Smith and again ordered me to vacate (actually using the term "vacate" this time) under threat. This was recorded as well.

SF Administrative Code Chapter 72 defines **Notice to Vacate: Any notice or order issued by Department of Public Health** or Department of Building Inspection that requires the temporary or permanent vacation of the unsafe residential unit or by the landlord in accordance with Section 37.9(a)(14) of the San Francisco Administrative Code.

Your astonishing dereliction of duty is on record and all responsible parties will be held accountable.

h <Amanda.Smith@sfdph.org>
To: flanneryjim@yahoo.com; ron@zulpc.com
Cc: Joe Walseth <Joe.Walseth@sfdph.org>; Karen Cohn <Karen.Cohn@sfdph.org>; Karen Yu <Karen.Yu@sfdph.org>
Sent: Fri, September 17, 2010 3:05:13 PM
Subject: In response

Dear Mr. Flannery and Mr. Schivo,

This message is to acknowledge that we have received your recent email messages. A hard copy of these messages will be put into the case file as documentation that we have received the messages.

However, as the Department of Public Health has communicated several times in the past, we have not and will not issue notices to vacate and we are not involved in any other notifications. We will ensure that all responsible parties cooperate with the correction of the lead hazards in Notice To Abate dated 11 August 2010 in a lead-safe manner and a Clearance Inspection has been performed at the end of the remediation process.

Therefore, we will not respond to further communication from either party regarding notifications, payments, quality of hotels, etc.

Please note that this message was written in agreement with my supervisor and his supervisor and they are copied in this email

Thank you for your cooperation. We expect to see the Clearance Report shortly.

Amanda Smith
San Francisco Department of Public Health

jim flannery
<flanneryjim@yahoo.com>
09/28/2010 08:00 PM

To Frank French <frankf@bayareafourstar.com>, David Herring <David.Herring@sfgov.org>, amanda.smith@sfdph.org, Karen.yu@sfdph.org, lenvin@zulpc.com, Ron Schivo
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject Re: contractor not lead certified - violation

The paint on that wall has been peeling for months all by itself. It obviously is continuing to do so. Maybe it has something to do with having been saturated for months, providing an ideal growth environment for Aspergillus. *Aspergillus* species are highly aerobic, which explains the bubbling paint that eventually burst open. The cohesive bond was likely compromised long ago by the prolonged saturation and mold proliferation. Isn't that why most mold abatement professionals make drying out the saturated medium a priority?

By the way Mr. French, you previously stated your intention to remove the mold infested plaster and investigate the weather proofing in the process, to find the source of the leaking. You even sent a CAC inspector to test the dining room plaster in preparation for its removal. When I saw that you had failed to remove any plaster, let alone barely any of the deteriorated paint, I was shocked to say the least.

And speaking of asbestos testing, the plaster removed in the living room was never tested. Your CAC guy only tested three areas in the dining room and two spots in the shower area - that is all.

Of course, if the Landlord had simply relocated me as required, the wall could have been painted over while I was gone and nobody would have been any the wiser. Instead it has been allowed to bake in this Indian-summer heat-wave for two weeks and continued to peel as before.

By the way, could I please have copies of all the clearance tests - complete with names and dates of all the testers who entered my home? Also, would you please give me the photos of my property, taken by your packers, as promised by both you and Ed?

NOT DIRECTED TO DPH

Thanks

From: Frank French <frankf@bayareafourstar.com>
To: jim flannery <flanneryjim@yahoo.com>; David Herring <David.Herring@sfgov.org>; amanda.smith@sfdph.org; Karen.yu@sfdph.org; lenvin@zulpc.com; Ron Schivo <ron@zulpc.com>; jerry <jerry-hh@sbcglobal.net>; BJ WASSERMAN <wassiji@yahoo.com>; georgeconner@sbcglobal.net
Cc: Julie Flannery-Allen <flanneryallen@yahoo.com>; Bonnie Moy <bonniem@bayareafourstar.com>
Sent: Mon, September 27, 2010 9:56:35 AM
Subject: RE: contractor not lead certified - violation

Mr. Flannery.

Upon completion of the work at your apartment the walls did not have any peeling paint. I personally inspected the unit with a third party lead inspector. The unit was ready for new paint upon the completion of our work. The final test showed that the unit was ready to reoccupy.

Thank you,

Frank French

Four Star Cleaning and Restoration

From: jim flannery [mailto:flanneryjim@yahoo.com]
Sent: Monday, September 27, 2010 7:41 AM
To: David Herring; amanda.smith@sfdph.org; Karen.yu@sfdph.org; lenvin@zulpc.com; Ron Schivo; jerry; BJ WASSERMAN; georgeconner@sbcglobal.net; Frank French
Cc: Julie Flannery-Allen
Subject: contractor not lead certified - violation

Inspectors and Landlords,

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This is a violation of EPA, CA and CCSF laws and codes.

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I have attached a few photos of the peeling paint left behind by Four Star. They were taken in the dining room on 9/26/2010.

As you can see, they did a very poor job and the tenant has been forced to live with this lead hazard job in progress for 11 days so far.

We informed Jerry of this last week, in person, but he failed to act.

Please order the Landlord to do the job properly and in accordance with laws and codes, and take necessary action to cease this violation and health hazard today.

Please inspect the unit in question as soon as possible today, 9/27/2010.

Thanks,
James Flannery

jim flannery
<flanneryjim@yahoo.com>
09/29/2010 07:36 AM

To Frank French <frankf@bayareafourstar.com>, David Herring <David.Herring@sfgov.org>, amanda.smith@sfdph.org, Karen.yu@sfdph.org, lenvin@zulpc.com, Ron Schivo
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject Fw: contractor not lead certified - violation

And of course all of the paint in the unit is definitely at least sixteen years old and almost certainly twenty years old or older, since it was not very fresh looking when we moved in sixteen years ago. It is well past its useful life and no longer perfoms its function of sealing in older layers of lead paint and all should have been repainted years ago. This is all a result of owner neglect and deferred maintenance.

Why didn't you just scrape away all the obvious peeling, cracking and deteriorated paint while I was barred from entry to my sealed apartment and my property was sealed up in all of that wasted plastic sheeting? Were you ordered to make it seem like less of a job than it actually was? This whole thing has been horribly mismanaged.

Now even more environmentally wasteful plastic will be required.

Now I have been exposed to even more lead dust from actively peeling paint and falling chips.

----- Forwarded Message ----
From: jim flannery <flanneryjim@yahoo.com>
To: Frank French <frankf@bayareafourstar.com>; David Herring <David.Herring@sfgov.org>; amanda.smith@sfdph.org; Karen.yu@sfdph.org; lenvin@zulpc.com; Ron Schivo <ron@zulpc.com>; jerry <jerry-hh@sbcglobal.net>; BJ WASSERMAN <wassiji@yahoo.com>; georgeconner@sbcglobal.net
Cc: Julie Flannery-Allen <flanneryallen@yahoo.com>
Sent: Tue, September 28, 2010 8:00:59 PM
Subject: Re: contractor not lead certified - violation

The paint on that wall has been peeling for months all by itself. It obviously is continuing to do so. Maybe it has something to do with having been saturated for months, providing an ideal growth environment for Aspergillus. *Aspergillus* species are highly aerobic, which explains the bubbling paint that eventually burst open. The cohesive bond was likely compromised long ago by the prolonged saturation and mold proliferation. Isn't that why most mold abatement professionals make drying out the saturated medium a priority?

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By the way, could I please have copies of all the clearance tests - complete with names and dates of all the testers who entered my home? Also, would you please give me the photos of my property, taken by your packers, as promised by both you and Ed?

Thanks

From: Frank French <frankf@bayareafourstar.com>
To: jim flannery <flanneryjim@yahoo.com>; David Herring <David.Herring@sfgov.org>; amanda.smith@sfdph.org; Karen.yu@sfdph.org; lenvin@zulpc.com; Ron Schivo <ron@zulpc.com>; jerry <jerry-hh@sbcglobal.net>; BJ WASSERMAN <wassiji@yahoo.com>; georgeconner@sbcglobal.net
Cc: Julie Flannery-Allen <flanneryallen@yahoo.com>; Bonnie Moy <bonniem@bayareafourstar.com>
Sent: Mon, September 27, 2010 9:56:35 AM
Subject: RE: contractor not lead certified - violation

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Thank you,

Frank French

Four Star Cleaning and Restoration

From: jim flannery [mailto:flanneryjim@yahoo.com]

Sent: Monday, September 27, 2010 7:41 AM
To: David Herring; amanda.smith@sfdph.org; Karen.yu@sfdph.org; lenvin@zulpc.com; Ron Schivo; jerry; BJ WASSERMAN; georgeconner@sbcglobal.net, Frank French
Cc: Julie Flannery-Allen
Subject: contractor not lead certified - violation

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I have attached a few photos of the peeling paint left behind by Four Star. They were taken in the dining room on 9/26/2010.

As you can see, they did a very poor job and the tenant has been forced to live with this lead hazard job in progress for 11 days so far.

We informed Jerry of this last week, in person, but he failed to act.

Please order the Landlord to do the job properly and in accordance with laws and codes, and take necessary action to cease this violation and health hazard today.

Please inspect the unit in question as soon as possible today, 9/27/2010.

Thanks,
James Flannery

jim flannery
<flanneryjim@yahoo.com>
10/01/2010 04:25 PM

To Karen.yu@sfdph.org, amanda.smith@sfdph.org, Joe Walseth <Joe.Walseth@sfdph.org>
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject request for documents

History: This message has been replied to.

Could you please send me all documents related to lead abatement at 178 Church St. #1?

I am particularly interested in documents related to why an extension was granted to the Landlord and of course, documents related to testing and clearance. There are several serious *discrepancies* related to clearance times and dates that indicate conspiracy and cover-up.

Do you consider this job to be successfully abated, despite it being incomplete and documented proof from DBI stating that the peeling paint hazards remain, just as before the $14,000 "abatement" by Four Star?

Is the Landlord and contractor being investigated for lying about the scope of work?

Another contractor evaluated the apartment yesterday and said it would take another 6-10 days to complete.

Why had nobody from DPH followed up on this?

Thanks,
James Flannery

on 10/6 WAS ASKED TO contact PIO. HE DID NOT DO SO UNTIL 10/13. THE DAY AFTER HE FILED COMPLAINT.

jim flannery
<flanneryjim@yahoo.com>
10/05/2010 11:55 AM

To Karen.yu@sfdph.org, amanda.smith@sfdph.org, Joe Walseth <Joe.Walseth@sfdph.org>
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc
Subject Fw: DBI 14 day extension expired

DPH,

The Landlord stated "lack of cooperation has been noted by DPH, among others", as you can read below.

Is this true?

If your department has somehow concluded that the Tenant has not cooperated, on record, please provide any such documentation and supporting evidence regarding this finding, if such documentation exists.

Thanks,
James Flannery

----- Forwarded Message -----
From: jim flannery <flanneryjim@yahoo.com>
To: David Herring <David.Herring@sfgov.org>; lenvin@zulpc.com; Ron Schivo <ron@zulpc.com>; jerry <jerry-hh@sbcglobal.net>; mark grant <markgrant@amoresf.com>; BJ WASSERMAN <wassiji@yahoo.com>
Cc: Julie Flannery-Allen <flanneryallen@yahoo.com>
Sent: Tue, October 5, 2010 11:39:03 AM
Subject: Re: DBI 14 day extension expired

1. You claim "lack of cooperation has been noted by DPH, among others." Please provide proof of this "noting" and specify who these "others" are. Your allegations remain unsubstantiated. I have never denied access when given proper required notification. On the contrary, I have allowed dozens of entries throughout this ordeal.

2. The Landlord is retaliating against the Tenant for enforcing their right to deny entry when not given proper notification, relocation payment, or both.

3. The Landlord has slandered and defamed the Tenant on public record and interfered with the tenants right to receive services from public agencies, through lies and deception.

4. The Landlord has repeatedly made false claims of the Tenant denying entry, while ignoring repeated requests for specific incidents of such activity. It is impossible for the tenant to defend himself against something when they are not even told exactly what the alleged crime they supposedly committed is, and when it allegedly occurred. This ridiculous Kafkaesque nightmare has resulted in real damage to the Tenant.

5. Denying entry is a stated cause for eviction, so why hasn't the Landlord pursued eviction? It is no secret the Landlord wants the tenant out, so it makes no sense for the Landlord to not act on this alleged evidence of denying entry. Extraordinary claims require extraordinary evidence, so put up or shut up.

From: Ron Schivo <ron@zulpc.com>
To: jim flannery <flanneryjim@yahoo.com>
Cc: "David.Herring@sfgov.org" <David.Herring@sfgov.org>
Sent: Tue, October 5, 2010 10:27:49 AM
Subject: RE: Church St

Mr Flannery:

The landlord is in touch with DBI and is making all required repairs. I defer to DBI with respect to any deadlines.

The landlord disputes your claims that it gave false claims to DBI. On the contrary, you have impeded the repairs all along with your lack of cooperation in permitting access and facilitating the work. Your lack of cooperation has been noted by DPH, among others.

Ron Schivo

Ronald D. Schivo

Attorney at Law

Zacks & Utrecht, PC
Real Estate Law
235 Montgomery Street, Suite 400
San Francisco , CA 94104

(415) 956-8100 P

(415) 288-9755 F

From: jim flannery [mailto:flanneryjim@yahoo.com]
Sent: Tuesday, October 05, 2010 9:36 AM
To: David Herring; Nancy Lenvin; Ron Schivo ; jerry; mark grant; BJ WASSERMAN
Cc: Julie Flannery-Allen
Subject: DBI 14 day extension expired

On September 16, 2010, at the DBI Directors hearing, the Landlord was granted a 14-day extension to abate outstanding violations. Of course, this extension was granted based upon false and unsubstantiated claims put forth by the Landlord that the Tenant was somehow denying access. The tenant was not given due process and the opportunity to defend himself against these fabricated allegations, or even told when these alleged incidents occurred.

Regardless, it has been 20 days since the extension was wrongly granted and the Landlord still failed to meet the deadline.

It is my understanding that DBI is now required to intervene and perform the required abatement and relocate the tenant as required.

Please advise.

jim flannery
<flanneryjim@yahoo.com>

10/12/2010 09:10 AM

To amanda.smith@sfdph.org, Karen.yu@sfdph.org, Joe Walseth <Joe.Walseth@sfdph.org>
cc Julie Flannery-Allen <flanneryallen@yahoo.com>
bcc

Subject Immediate Disclosure Request

History: This message has been replied to.

REFERRED TO PIO

DPH,

This is another Immediate Disclosure Request for the status of the Order to Abate for 178 Church St. #1.

Please tell me if this case has been considered to be abated and if so, please provide verification and all clearance test results.

The landlord has made the claim that your department gave "clearance".

Why was the landlord informed of this but not the tenant, who actually has to live with the health hazard?

Is this case 'abated' and has it been given 'clearance'?

Please respond ASAP.

-James Flannery

jim flannery
<flanneryjim@yahoo.com>
10/13/2010 11:01 AM

To Amanda Smith <Amanda.Smith@sfdph.org>
cc
bcc
Subject Re: Immediate Disclosure Request

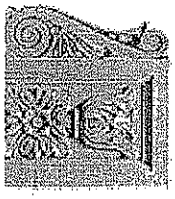
Thanks for responding. I contacted Public Information Officer Eileen Shields.

From: Amanda Smith <Amanda.Smith@sfdph.org>
To: jim flannery <flanneryjim@yahoo.com>
Cc: Joe Walseth <Joe.Walseth@sfdph.org>; Karen.yu@sfdph.org
Sent: Wed, October 13, 2010 10:11:43 AM
Subject: Re: Immediate Disclosure Request

Mr. Flannery, all that was cited in my Notice to Abate dated August 11, 2010 have achieved clearance except for the wall in the dining room. The management team has assured me that it will get cleared as soon as possible. And as for any copies of records you need to contact the Public Information Officer Eileen Shields.

Thank you.

Amanda Smith
San Francisco Department of Public Health
Environmental Health Section
1390 Market Street Suite 210
San Francisco, CA 94102
Phone: (415) 252-3941
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org



Amanda Smith/DPH/SFGOV
10/13/2010 10:11 AM

To jim flannery <flanneryjim@yahoo.com>
cc Joe Walseth <Joe.Walseth@sfdph.org>, Karen.yu@sfdph.org
bcc
Subject Re: Immediate Disclosure Request

Mr. Flannery, all that was cited in my Notice to Abate dated August 11, 2010 have achieved clearance except for the wall in the dining room. The management team has assured me that it will get cleared as soon as possible. And as for any copies of records you need to contact the Public Information Officer Eileen Shields.

Thank you.

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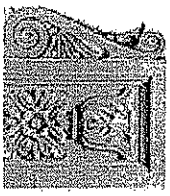
Email: amanda.smith@sfdph.org



Amanda Smith/DPH/SFGOV
10/06/2010 10:36 AM

To jim flannery <flanneryjim@yahoo.com>
cc Joe Walseth <Joe.Walseth@sfdph.org>, Karen.yu@sfdph.org
bcc
Subject Re: request for documents

Jim, you will need to contact Eileen Shields for your request. She is a Public Information Officer and her contact number is 415-554-2507.'

Thank you

Amanda Smith
San Francisco Department of Public Health
Environmental Health Section
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San Francisco, CA 94102
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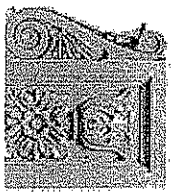
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org



Amanda Smith/DPH/SFGOV
09/10/2010 10:45 AM

To jim flannery <flanneryjim@yahoo.com>
cc Joe Walseth/DPH/SFGOV@SFGOV, Karen Yu/DPH/SFGOV@SFGOV
bcc
Subject Re: fromal request for lab results

No problem, I will send you a copy of the original lab results from my inspection on August 6, 2010. You can contact the lab with your question regarding the margin of error.

Thank you.

Amanda Smith
San Francisco Department of Public Health
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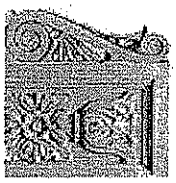
San Francisco, CA 94102
Phone: (415) 252-3941
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org

* Requested lab results were sent out via U.S. Mail on same day 9/10/10.



Amanda Smith/DPH/SFGOV
09/07/2010 01:50 PM

To jim flannery <flanneryjim@yahoo.com>
cc
bcc
Subject Re: notification of affected tenants

Mr. Flannery,

I have reviewed the sections to which you have referred in the HUD Guidelines. The HUD Guidelines are not legal codes but are guidelines. In light of the fact that there are no children (who are most at risk for lead poisoning besides the contractors) currently living on the premises and the fact that the certified contractor will follow all lead-safe work practice requirements per the SF Building Code, the Health Department will not be issuing a notice to the landlord requiring relocation. Please direct all further inquiries regarding relocation to your landlord.

Thank you.

Amanda Smith
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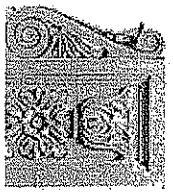
Environmental Health Section
1390 Market Street Suite 210
San Francisco, CA 94102
Phone: (415) 252-3941
Fax: (415) 252-3889
Email: amanda.smith@sfdph.org



Amanda Smith/DPH/SFGOV
09/03/2010 11:26 AM

To jim flannery <flanneryjim@yahoo.com>
cc Joe Walseth/DPH/SFGOV@SFGOV, Karen Yu/DPH/SFGOV@SFGOV
bcc
Subject Re: notification of affected tenants

Mr. Flannery,

The owner or lead professional can submit a copy of the scope of work to you if you request it. However, I have attached a copy of it for you at the end of this email. I have spoken to both your landlord and the Lead Supervisor that is going to perform the lead abatement work in your unit and everyone seems to be on track with all of the areas that need to be abated upon my Notice to Abate dated August 11, 2010. As for the notification of entry, the landlord will give you a notice of 3 business days to begin work in your unit. Please also note that if you are obstructing the entry of your unit after proper notification then you too are held responsible for the abatement of the lead hazards as the current tenant occupying the unit.

I have also sent you a letter in response to your inquiries about relocation.

Thank you.

Scope of work.pdf

Relocation response letter.doc

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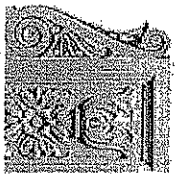

Amanda Smith/DPH/SFGOV
08/30/2010 02:07 PM

To jim flannery <flanneryjim@yahoo.com>
cc
bcc
Subject Re: question regarding phone conversation

James, if you read the Notice to Abate it has all of the requirements listed. A landlord is to submit the contractors certifications and scope of work to us within 10 days of the issue date of the Notice to Abate. If the certifications and scope of work is not received by the date given, we send out a letter of delinquency stating that the property owner is delinquent in providing us the required material. I have since spoken to Amore property management and got confirmation that they will fax over the scope of work and certifications of the chosen contractor. And we do not typically notify the tenant upon receiving this information. I hope this has answered your questions, please let me know if there is anything further.

Thank you.

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