



SAN FRANCISCO PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: MARCH 8, 2018
Continued from the January 11, 2018 Hearing

Date: March 1, 2018
Case No.: **2017-013609CND**
Project Address: **668-678 PAGE STREET**
Zoning: RH-3 (Residential-House, Three Family) District
40-X Height and Bulk District
Block/Lot: 0843 / 015
Project Sponsor: Rosemarie MacGuinness
388 Market Street, Suite 1300
San Francisco, CA 94111
Staff Contact: David Weissglass – (415) 575-9177
david.weissglass@sfgov.org
Recommendation: **Disapproval**

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BACKGROUND

At the January 11, 2018 Planning Commission hearing, the project sponsor sought approval of a Condominium Conversion Subdivision of a three-story-over-garage, six-unit building within a RH-3 (Residential-House, Three Family) Zoning District and a 40-X Height and Bulk District. The subject building is considered a legal use as the Report of Residential Building Record indicates that the legal authorized occupancy and use is a six-unit dwelling. Although Department staff recommended that the Commission approve the Project, after the public hearing had closed the Commission moved to continue the project to the February 1, 2018 public hearing with an intent to disapprove the case per Subdivision Code Sections 1386 and 1396. At the February 1, 2018 hearing, the case was further continued to the March 8, 2018 public hearing.

At the public hearing on January 11, 2018, a number of speakers gave public comment regarding the case of Iris Canada, an elderly occupant of one of the building's units who was removed from the unit on February 10, 2017. The project sponsor alleged that Ms. Canada was granted a Life Estate in 2005, allowing her to remain in her unit for the duration of her lifetime, after which the property would return to the possession of the sponsor. The sponsor further alleged that Ms. Canada ceased to live in the unit permanently in 2012, therefore breaking the terms of the Life Estate. The sponsor claims that after his attempts to contact Ms. Canada and restore her Life Estate were not received, he moved to obtain possession of the unit, which was granted in court.

The majority of speakers at the hearing were opposed to the request, claiming that Ms. Canada did not break the terms of her Life Estate and continued to live in her unit until her removal on February 10, 2017. Many of the speakers alleged that the sponsors unlawfully evicted Iris Canada from her unit in preparation for the Condominium Conversion and as a result the Project should be denied for its inconsistency with the goals of the General Plan as well as the Subdivision Code. At the January 11, 2018

hearing, the Commission and Department staff were made aware of additional documents and details regarding the legal battle.

CURRENT PROPOSAL

The proposal of a Condominium Conversion Subdivision remains. However, per the Planning Commission's motion at the January 11, 2018 public hearing and given the introduction of new information regarding the Project, Department staff now recommend that the Commission disapprove the Project.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must disapprove the request for a Condominium Conversion Subdivision per Subdivision Code Sections 1386 and 1396.

BASIS FOR RECOMMENDATION

- The project is inconsistent with the requirements set for the in Section 1386 of the San Francisco Subdivision Code.
- The project is inconsistent with the Objectives and Policies of the General Plan.
- The Project does not comply with the eight priority-planning policies set forth in Planning Code Section 101.1(b).

RECOMMENDATION: Disapproval

Attachments:

Draft Motion

Exhibits

Project Sponsor Submittal

2012.0909D Discretionary Review application

June 2016 Superior Court order of attorneys' fees



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|------------------------------------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Draft Motion

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ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF A CONDOMINIUM CONVERSION SUBDIVISION OF A THREE-STORY-OVER-GARAGE, SIX-UNIT BUILDING INTO RESIDENTIAL CONDOMINIUMS, PURSUANT TO THE GENERAL PLAN AND SUBDIVISION CODE SECTIONS 1386 AND 1396, WITHIN A RH-3 (RESIDENTIAL-HOUSE, THREE FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On September 25, 2017, Rosemarie MacGuinness (hereinafter "Project Sponsor") filed an application with the Department of Public Works, Bureau of Street Use and Mapping for Planning Department review to allow the Condominium Conversion Subdivision of a three-story-over-garage, six-unit building into residential condominiums within a RH-3 (Residential-House, Three Family) Zoning District and a 40-X Height and Bulk District. The subject building is considered a legal use as the Report of Residential Building Record indicates that the legal authorized occupancy and use is a six-unit dwelling.

On January 11, 2018, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Condominium Conversion Subdivision Application No. 2017-013609CND. At the hearing, the Project was presented to the Commission, public

testimony was heard, and after consideration, the Commission adopted a motion of intent to deny the project and continued the matter to February 1, 2018. At the February 1, 2018 hearing, the Commission further continued the matter to March 8, 2018.

Section 1396, Article 9 of the Subdivision Code of the City and County of San Francisco sets forth the following rules and regulations for condominium conversions:

- A. Units may be converted to condominiums so long as they meet the requirements of the Expedited Conversion Program per the Subdivision Code. An exception is provided for two-unit buildings where both units are owner-occupied for one year.
- B. The following categories of buildings may be converted to condominiums:
 - i. Buildings consisting of four units or less in which at least one of the units has been occupied continuously by one of the owners of record for five years prior to the date of application for conversion.
 - ii. Buildings consisting of six units or less in which at least three of the units have been occupied continuously by three of the owners of record for five years prior to the date of application for conversion.

The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six units for consistency with the General Plan where at least one unit is residential. The Code calls for a sales program which promotes affirmative action in housing, a non-transferable tenant right of first-refusal to purchase the unit occupied by the tenant and various relocation requirements, including the right to a \$1,000 relocation payment.

The Subdivision Code further provides for a lifetime lease for all tenants aged 62 years or older and/or are permanently disabled, and requires that no less than 40 percent of the tenants either have signed Intent to Purchase forms or be in a position of accepting such a lifetime lease. The Code prohibits any increase in rents while the conversion application is pending before the City.

Section 1386, Article 9 of the Subdivision Code of the City and County of San Francisco requires that the Planning Commission disapprove the Tentative Map if it determines that vacancies in the project have been increased, elderly or permanently disabled tenants have been displaced or discriminated against in leasing units, evictions have occurred for the purpose of preparing the building for conversion, or the subdivider has knowingly submitted incorrect information.

The project was determined not to be a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff and other interested parties.

MOVED, that the Commission hereby disapproves the Condominium Conversion Subdivision requested in Application No. 2017-013609CND based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. The applicant requests Planning Department review of a Condominium Conversion Subdivision Application to allow for the conversion of the multi-unit building.
3. As required by Section 1396 of the San Francisco Subdivision Code, at least three of the units have been owner occupied continuously by one or more of the owners of record for five years prior to the date of application for conversion.
4. Tenants in the subject building were notified of their right of first-refusal to purchase the unit they occupy, as required by the Subdivision Code, and of other rights to which they are entitled under provisions of the same Code.
5. A search of the Rent Board database did not show any tenant petitions or no-fault eviction notices filed with the Rent Board in the last 5 years. However, a San Francisco County Sheriff did remove the belongings of Iris Canada, an elderly woman occupying the unit at 670 Page Street, on February 10, 2017.
6. The Project is inconsistent with the requirements set forth in Section 1386, Article 9 of the San Francisco Subdivision Code, as follows:
 - a. Iris Canada was an elderly woman who had resided at 670 Page Street for a number of years before her displacement on February 10, 2017. After reaching an agreement in which Ms. Canada was granted a Life Estate in 2005, the subdivider alleged in 2016 that Ms. Canada had broken the terms of the Life Estate by failing to permanently reside at 670 Page Street and ordered that she vacate the unit. Later that year, The Superior Court of California granted Ms. Canada relief and allowed her to remain in the unit, but required that she pay Plaintiffs' attorney fees. Ms. Canada was unable to make such payment, and was thereafter displaced from 670 Page Street on February 10, 2017, when her items were removed from the unit by a San Francisco County Sheriff and the locks were changed.
 - b. Iris Canada's displacement occurred on February 10, 2017 for the purpose of preparing the building for conversion. While this was not a "no-fault" eviction as determined by the Rent Board, the Planning Commission may consider this information as part of its review

of the application and as provided in Subdivision Code Section 1386. The initial Notice to Vacate issued by the Sheriff's Department specifically notes that 670 Page Street is the "Eviction Address."

- c. The subdivider submitted incorrect information to the City and County of San Francisco. A Discretionary Review application (2012.0909D), filed with the Planning Department on July 2, 2014 by the occupant of 678 Page Street, specifically mentions Iris Canada as the current occupant of 670 Page Street. This information is inconsistent with the building history listed on "Form 1" of the subdivider's application to the Department of Public Works, which states that 670 Page Street was "vacant" from November 2012-January 2017.
 - d. While the Court may have determined that Ms. Canada was no longer entitled to a life estate under the specific terms of a private agreement, there is evidence showing that she continued to be a tenant of the unit until February 10, 2017.
7. On balance, the Project is inconsistent with the Objectives and Policies of the General Plan, as follows:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.4:

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

Property owners are required to correct outstanding code violations identified in a Physical Inspection Report issued by the Department of Building Inspection (DBI). All work must be completed and a DBI Certificate of Final Completion must be issued prior to DPW approval.

OBJECTIVE 3:

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.3:

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

Conversions of rental stock to condominiums can help achieve affordable homeownership, providing a category of housing stock for moderate income housing needs. Property owners must achieve this

conversion through one of the City's conversion programs, such as the Expedited Conversion Program, The Expedited Conversion Program allows property owners to apply to convert their units into condominiums provided they adhere to the strict standards of the program, including but not limited to restrictions on displacement of or discrimination against elderly or permanently disabled tenants, evicting tenants for the purposes of preparing the property for conversion, and providing incorrect or incomplete information in application documents. By displacing an elderly tenant for the purpose of preparing the building for conversion and submitting incorrect or incomplete information to the agencies of the City and County of San Francisco, the subdivider has failed to achieve the standards set for such conversion. Therefore, this project does not meet the goals of Policy 3.3.

8. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does not comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The proposal would have no adverse effect upon existing neighborhood-serving retail uses as it is a change in form of residential tenure.

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

The proposal is a change in form of residential tenure and would not alter the existing housing and neighborhood character of the vicinity. However, the economic diversity of the neighborhood would likely be altered as a result of the Project, as a conversion of units from rental to ownership may affect who occupies the units, thus resulting in a less economically diverse neighborhood and City.

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

No housing would be removed for this project, but eviction of a long-term resident in order to convert to a higher value form of housing is not in keeping with the City's goal of maintaining affordable housing. While the maintaining of a certain class of housing available for ownership opportunity is important, the eviction of a long-term tenant does not satisfy the City's goals of protecting tenants of rental units or ensuring that more affordable rental units are available to residents.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The proposal is a change in form of residential tenure and would not affect public transit or neighborhood parking.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The proposal is a change in form of residential tenure and would not involve the industrial or service sectors of the City.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposal is subject to inspection by the Department of Building Inspection and will be required to make any code required repairs, including those related to life safety issues, prior to the recordation of the final condominium subdivision map.

- G. That landmarks and historic buildings be preserved.

The proposal is a change in form of residential tenure and would not affect landmarks or historic buildings.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The proposal is a change in form of residential tenure and would not affect public parks or open space.

9. The Project is inconsistent with and would not promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed and proposed, and given the actions of the subdividers, the Project would not contribute to the character and stability of the neighborhood and would not constitute a beneficial development.
10. The Commission hereby finds that approval of the Condominium Conversion Subdivision would not promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, Department staff and other interested parties, the oral testimony presented to this Commission at the public hearings and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES Condominium Conversion Subdivision Application No. 2017-013609CND**.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 8, 2018, 2018.

Jonas Ionin
Commission Secretary

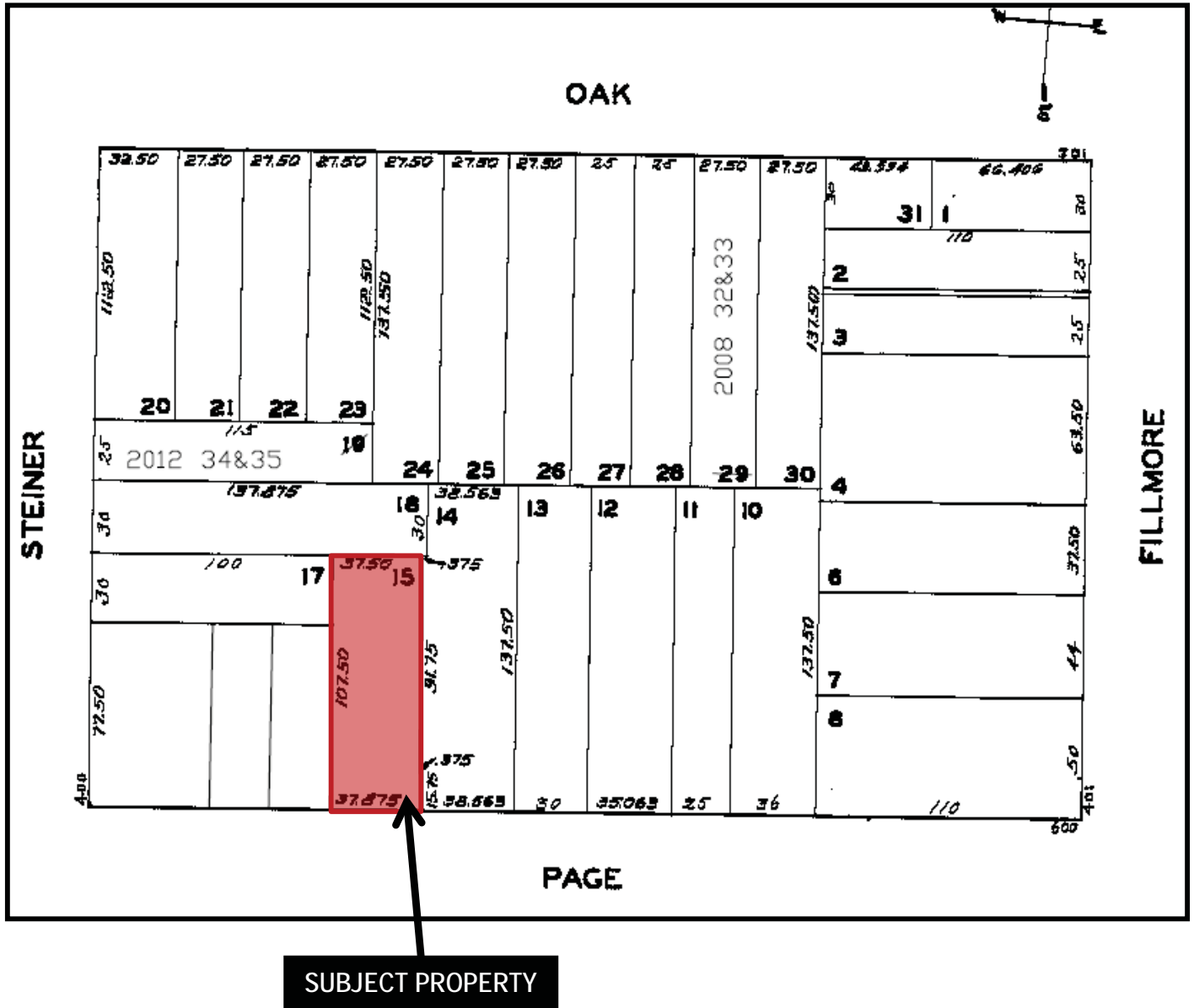
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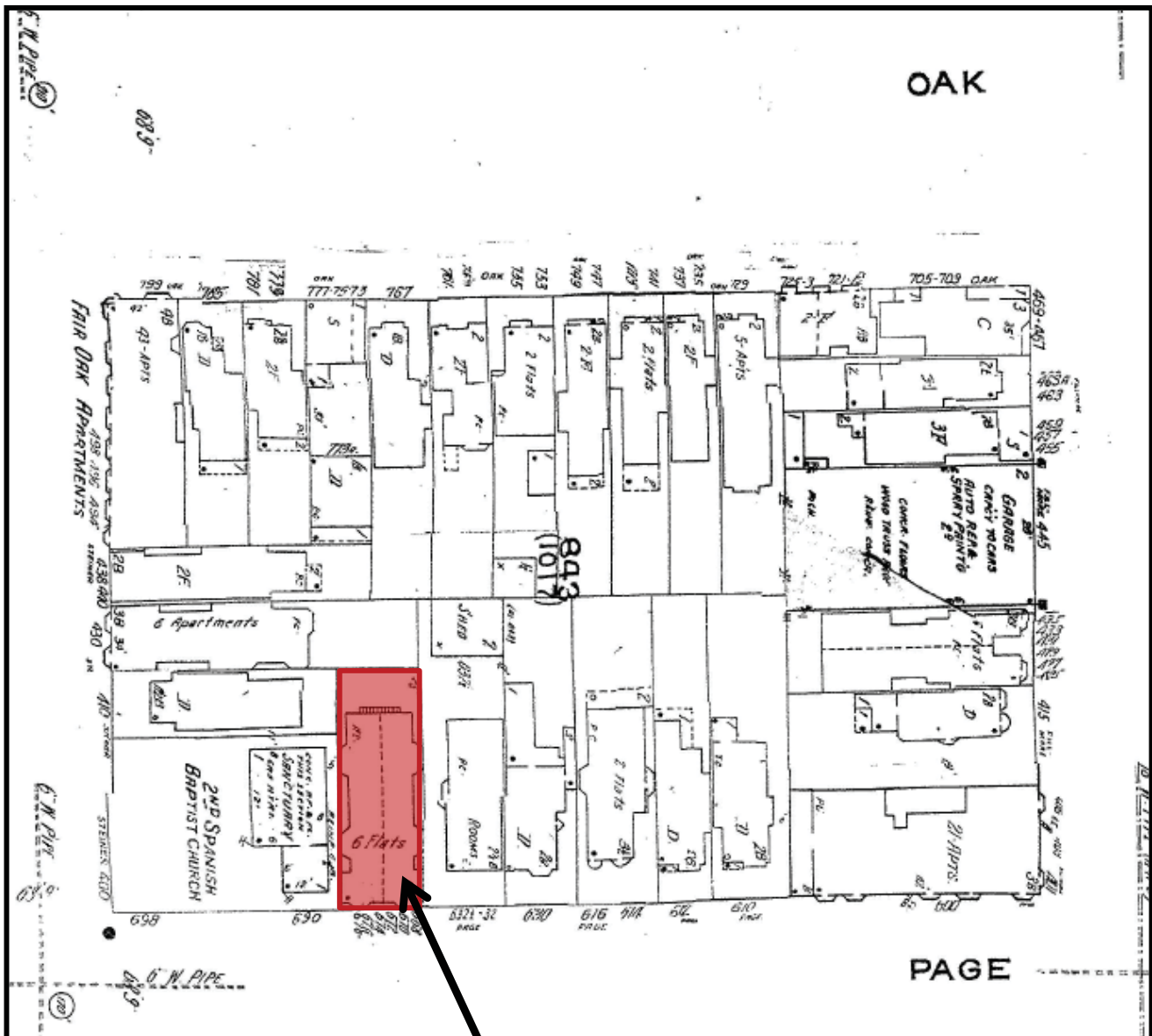
ABSENT:

ADOPTED: March 8, 2018

Block Book Map



Sanborn Map



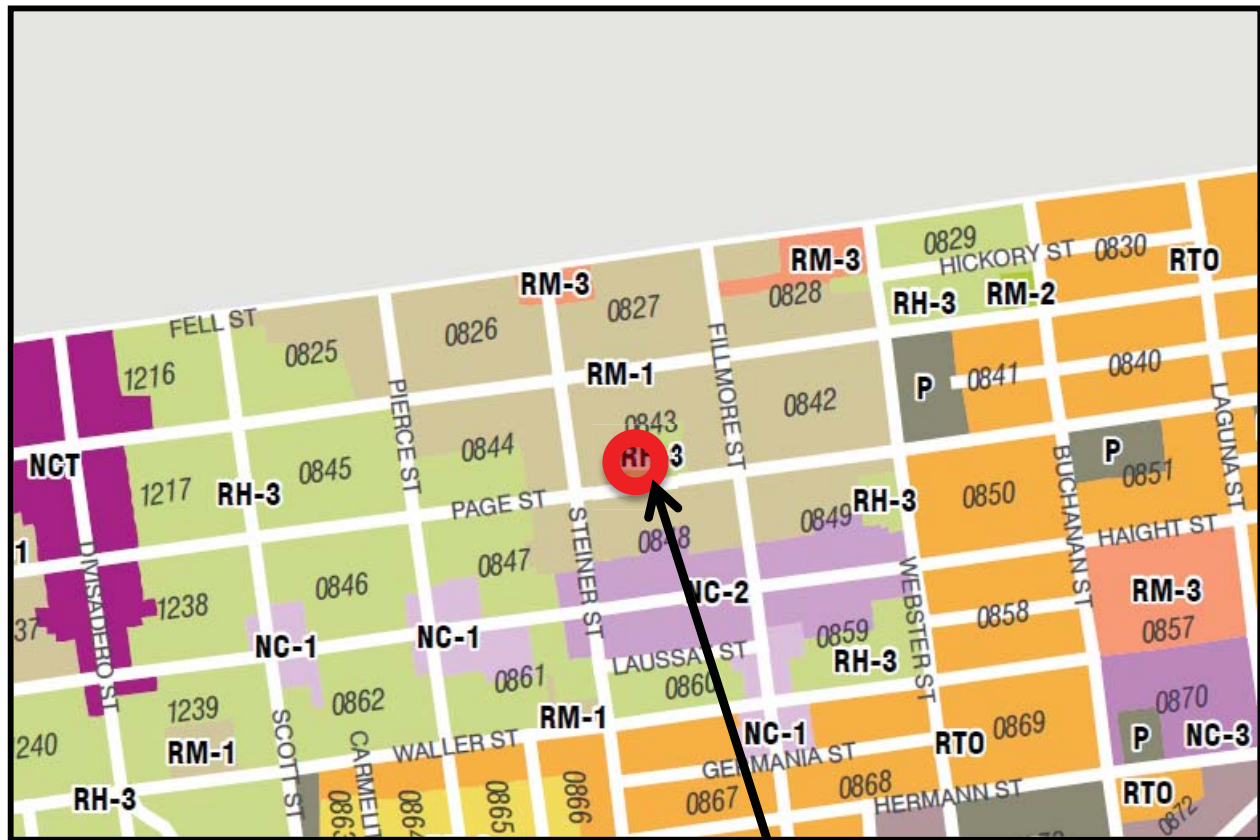
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2017-013609CND
668-678 Page Street
Block 0843 Lot 015

Zoning Map



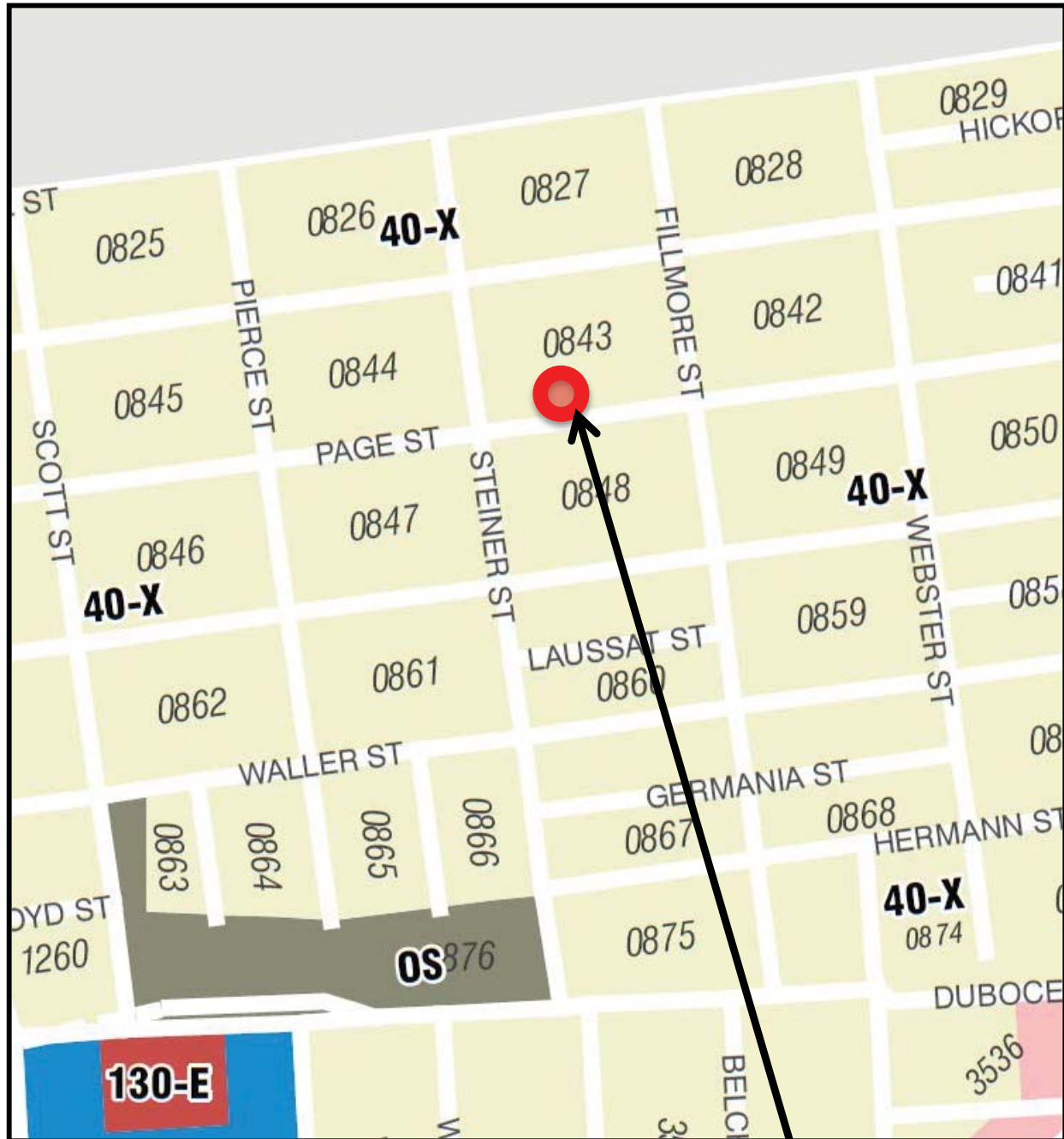
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2017-013609CND
668-678 Page Street
Block 0843 Lot 015

Height and Bulk Map



SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2017-013609CND
668-678 Page Street
Block 0843 Lot 015

Aerial Photo



SUBJECT PROPERTY

**SAN FRANCISCO
PLANNING DEPARTMENT**



Conditional Use Hearing
Case Number 2017-013609CND
668-678 Page Street
Block 0843 Lot 015

Aerial Photo



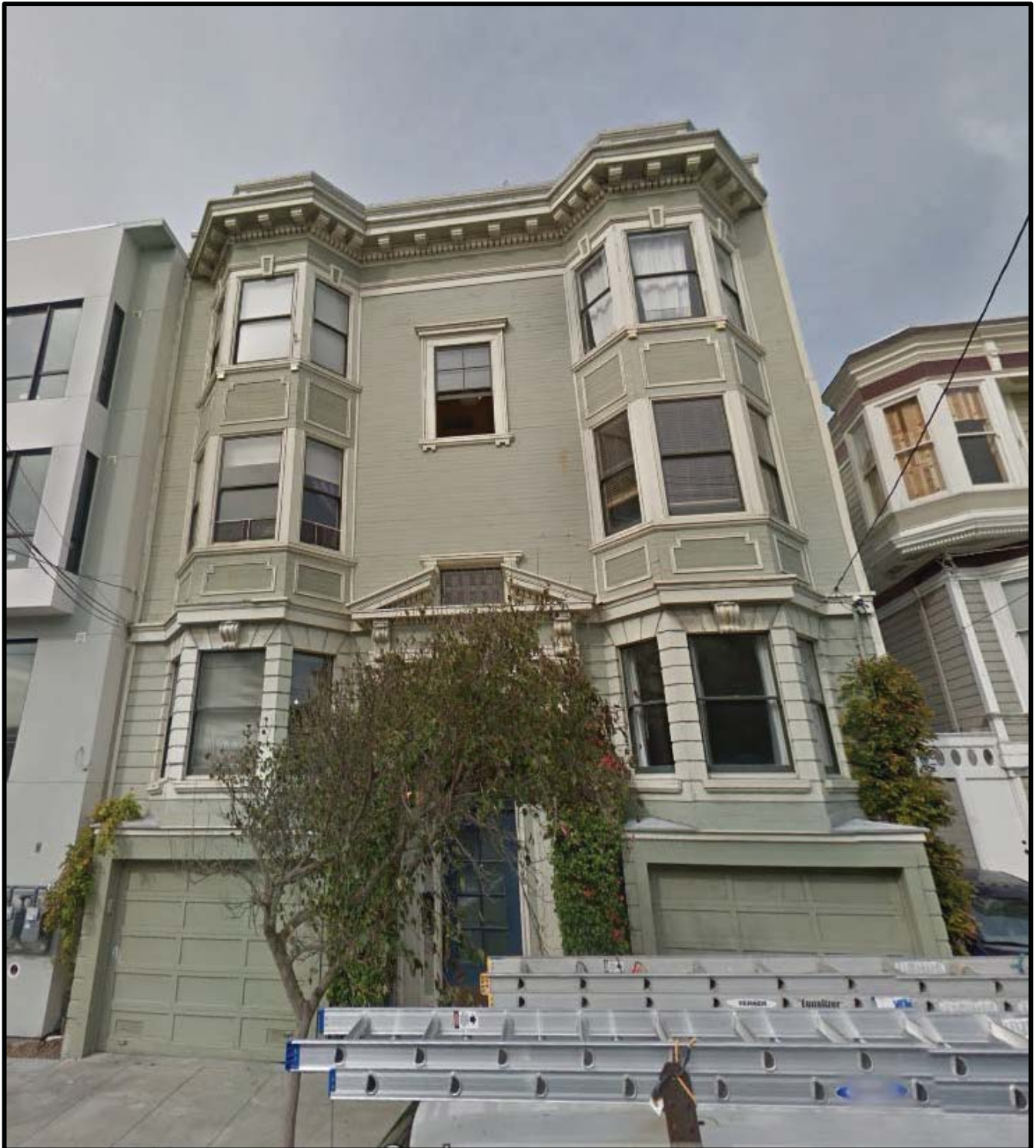
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2017-013609CND
668-678 Page Street
Block 0843 Lot 015

Site Photo



SAN FRANCISCO
PLANNING DEPARTMENT



Conditional Use Hearing
Case Number 2017-013609CND
668-678 Page Street
Block 0843 Lot 015

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February 26, 2018

Scott Emblidge
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Via Hand Delivery and Email

Rich Hillis, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94102-4689

Re: 668-678 Page Street Condo Conversion Application

Dear President Hillis and Members of the Planning Commission:

I write to follow up on the January 11 hearing you held on this matter, and in anticipation of your further consideration of this matter at your March 8 meeting. You heard from many opponents on January 11 who told you a tale that, if true, would make any reasonable person want to find a way to deny this application. As described to you by the opponents, the applicants evicted 100-year-old Iris Canada, lied to the City about whether Ms. Canada was residing at 670 Page Street, took advantage of her by obtaining a judgment when Ms. Canada had no lawyer representing her, and then told Ms. Canada she could move back to her Page Street unit only if she paid them over \$100,000 awarded by the court. That certainly sounds like shameful conduct – if it were true.

But the allegations you heard that day are not true, as documents and sworn testimony prove. Ms. Canada was an *owner* of, not a *tenant* in, her unit. As such, she could not be “evicted.” And Ms. Canada was not residing in her unit. Ms. Canada left her unit in 2012 to move in with her grand-niece, Iris Merriouns, in Oakland because she was no longer able to care for herself. Ms. Merriouns testified to this under oath. The sworn testimony of all Ms. Canada’s neighbors corroborates this. This meant that Ms. Canada failed to comply with her ownership obligations under her life estate and, because of the intransigence of her grand-niece, Mr. Owens was forced, by the agreement’s terms, to obtain a court order foreclosing her life estate. This action - foreclosure against a defaulting owner - in no way disqualifies a building under San Francisco’s condo conversion

ordinance. And contrary to what you heard on January 11, Ms. Canada had ample legal counsel. During this whole process, she was represented by at least ten different attorneys, and at least four different attorneys appeared on her behalf in court.

Finally, after months of litigation in which Ms. Canada's attorneys and Ms. Merriouns were repeatedly sanctioned by the Superior Court for misconduct, and which resulted in judgment for Mr. Owens including a monetary award of over \$169,000, Mr. Owens offered to (a) let Ms. Canada return to her Page Street unit, (b) permit her to reside there with a caregiver (even though the life estate did not permit a second resident), and (c) not enforce the court's monetary award.¹ That's right, Mr. Owens said, effectively, "come on back and live at Page Street and I'll absorb all the attorneys' fees you and your grand-niece forced me to incur." But at her grand-niece's insistence, and against the advice of her attorneys, Ms. Canada turned this down. Why? Because her grand-niece insisted that Mr. Owens sell the Page Street unit to her at a windfall price. Just who is exploiting whom in this scenario?

The point of this letter is to substantiate these *verifiable facts* and differentiate them from the *unsupported accusations* made by the opponents at the January hearing, so that this Commission can make an informed decision on March 8.

Iris Canada Did Not Reside at 670 Page Street

You heard several people say that they "know" that Iris Canada lived at 670 Page Street because they saw her picture in the paper or saw her photo being taken at a press event sitting on a couch in the unit. Here are the facts, taken from testimony under oath.

Ms. Canada's grand-niece Iris Merriouns testified under oath that Ms. Canada had been living with Ms. Merriouns in Oakland and attending adult daycare in Oakland since at least May 2014. "She stays with me most nights, wherever I am, she is." (Exhibit A at 34:9-10; 41:23-25; 121:5-9.) Ms. Merriouns also testified she had been her primary caregiver since December 2012 (Exhibit A at 43:10-16; 82:7-11) and that she did not trust Ms. Canada "to stay by herself,

¹ Commissioners, if you read nothing else attached to this letter, please read Exhibits S, T and U which detail the offers Mr. Owens made to Ms. Canada that would have allowed her to return to Page Street.

especially at the Page Street address." (Exhibit A at 31:15-22; 32:10-16; 42:18-43:16.)

All of Ms. Canada's neighbors testified under oath that starting in 2012, Ms. Canada no longer appeared to be living at 670 Page Street. For example, Anna Munoz lives in 676 Page Street and passed by Ms. Canada's door regularly. (Exhibit B at 1:21-26; 4:20-24.) Prior to 2012, Ms. Munoz saw and talked with Ms. Canada on a regular basis. From 2012 forward, she only saw Ms. Canada on rare occasions "when she would arrive at the building with Iris Merriouns. They would arrive, stay for a few hours and then leave and not be seen again for several months." (Exhibit B at 2:16-20.)

Jamie Anne Pierce testified that in 2014 she moved into 668 Page Street, directly adjacent to 670 Page Street. (Exhibit C at 1:25-28.) The two apartments share a sixty-foot-long common wall. For approximately 17 months, she never saw Ms. Canada, "never heard people walking the length of the hallway, never witnesses [sic] anyone coming or going from the entryway, never heard a television, radio, alarm clocks or even people talking in the adjacent apartment." (Exhibit C at 2:1-8.) In December 2014, the smoke detector went off in Ms. Canada's apartment and continued beeping for six weeks. (Exhibit C at 2:9-16.)

Geoffrey Pierce testified that he had lived at 668 Page Street since 2008. When he moved into 668 Page Street he "would typically see Iris Canada 3-4 times per week. Our interactions were always very cordial and I would regularly help her retrieve mail from the landing just below ours. This type of common interaction continued for approximately 4 years." (Exhibit D at 2:1-6.) Things changed in 2012. "Between the summer of 2012 and the beginning of 2015, I only saw Iris Canada at the building two times, once in late 2014 when her niece, Iris Merriouns, specifically brought her to the building and proceeded to knock on my door to proclaim that Iris, 'was in the building'." (Exhibit D at 2:7-14.) Mr. Pierce also testified:

Based on the proximity of my residence to Iris Canada's and our shared common wall, I used to hear typical residential sounds coming from her unit, not limited to people walking the length of the hallway, television, radio, alarm clocks and talking and I would normally hear people coming to visit her approximately

once a week. Between summer 2012 and the spring of 2015 I did not hear any such sounds emanating from her residence.

(Exhibit D at 2:21-3:17.)

Christopher Beahn testified that he, his wife and their two children reside in 674 Page Street, directly above Ms. Canada's unit. (Exhibit E at 1:23-26.) Mr. Beahn stated:

Seeing Iris Canada several times per week was a normal part of our lives. She popped her head out whenever someone would come up the stairs, asking for, help getting her mail or just chatting. She loved to pet our dog, and talk about her years living in the building with her husband James. She would show us his artwork and spoke about how he was a welder. Then in July 2012, we were unable to get Iris to answer her door, and were understandably concerned. We eventually discovered that her niece Iris Merriouns had removed Iris Canada to Oakland due to the state of the apartment. We did not see Iris Canada again until late 2015.

(Exhibit E at 2:1-8.)

Mr. Beahn also listed other reasons why it was clear to him that Ms. Canada moved out in 2012: "We never saw Iris Canada"; "There was no discernable activity or sounds emanating from the unit"; "Aside from some hired cleaners in July of 2012, we did not see anyone remove garbage or recycling from the unit"; "The regular delivery of Meals on Wheels ceased"; "There was no indication of regular mail service"; a "loud beeping noise . . . went on for more than a month"; Ms. Canada no longer was heating her apartment; and "packages or letters were left in front" of her door and "remained untouched for weeks or even months at a time." (Exhibit E at 2:13-3:14.)

Michel Bechirian testified that he lived at 678 Page since 2003. He said that for about nine years he typically saw Ms. Canada "approximately 3-4 times per week." "Our interactions typically involved neighborly chitchat, asking after her relatives and church friends, I would sometimes bring Iris fresh produce from the farmer's market and Iris Canada would also share stories

with me about her youth.” (Exhibit F at 2:1-8.) He stopped seeing her in 2012.² (Exhibit F at 2:13-16.)

Alexander Apke testified that he lived at 676 Page since 2010. When he first moved in he “would regularly see Iris Canada at least 3 times a week. She opened the door to her unit 670 Page Street whenever someone opened the building front door or when I walked down the stairs and past her unit. We used to have conversations about the weather, recently visiting friends and relatives, and her home. Particularly she liked talking about when she moved from the top floor of the building down to 670 Page Street. I always helped her bringing the mail from the mailboxes on the ground floor, up to her unit on the first floor.” (Exhibit G at 2:1-8.) That stopped in late 2012 as did Ms. Canada’s regular Meals on Wheels deliveries. (Exhibit G at 2:9-15.) (The certified records of Meals on Wheels of San Francisco confirm this – showing the Ms. Canada’s service was temporarily suspended on July 6, 2012 and then permanently cancelled on October 2, 2012. [Exhibit H].) Mr. Apke also testified that about five days before a staged press event showing Ms. Canada supposedly watching television in her unit, a Comcast truck installed service at 670 Page Street. (Exhibit G at 3:9-19.)

Peter Owens testified that when he traveled to San Francisco in late May 2014 to meet a building inspector at the apartment it was obvious no one had resided in the unit for a very long time

First, the toilet bowl was bone dry, as all of the water from the bowl had evaporated. The bathtub in the bathroom had mold in it and also had obviously not been used for a very long time. Rodent traps and roach traps lined most all of the walls of the apartment and virtually all of the furniture was stacked up in the center of the back rooms. It was patently obvious nobody had used the furniture in a very long time. Additionally, the beds

² Speakers accused Mr. Bechirian of duplicity for submitting a discretionary review application in 2014 in which he asserted a proposed project would interfere with light to Ms. Canada’s unit. At that time, Mr. Bechirian knew Ms. Canada had been absent from her unit for quite some time, but he did not learn until later in 2014 that Ms. Canada has permanently relocated to her grand-niece’s home in Oakland.

were covered with bags of old clothes, evidencing that nobody had used either the clothing or the beds in a very long time. The refrigerator was completely empty except for about two-dozen Dr. Pepper cans that I could not determine how long they had been there. There was vermin excrement on top of all of tables and all of the shelves in the kitchen, also evidencing that nobody had been in the apartment for a very long time. Large piles of trash blocked the back porch door, and there were rolls and rolls of urine-soaked and feces- infested carpeting. The smell alone was horrendous, further evidencing that nobody had lived in the apartment for a very long time. The calendar in the kitchen displayed the month "July 2012."

(Exhibit I at 8:1-17 with attached photographs).

While it is abundantly clear that Ms Canada had not been residing in the unit since 2012, some Commissioners questioned the applicants' use of the word "vacant" on the six-year occupancy history section of the application. While it is true that Ms Canada's furniture remained in the unit even after she moved out in 2012, the application's questions about occupancy do not relate to whether there is furniture in the unit; they are concerned with whether a person lives there. In this case, the application was prepared by an attorney with decades of experience in condo conversion applications who followed the standard DPW convention in preparation of the application: if the unit is occupied, the occupant is named; if the unit is unoccupied the unit is considered vacant. (Exhibit J.) As the court confirmed in its ruling, Ms. Canada had not resided in the unit since 2012. (Exhibit K.)

In short, the people who actually live in these units, and who actually knew Iris Canada, testified under oath that she stopped living there in 2012, and only occasionally reappeared after this litigation in 2015 and 2016 for staged press events. And this timeline aligns with the sworn testimony of Ms. Canada's grand-niece who testified that Ms. Canada had, in fact, been living with her in Oakland, and was not capable of caring for herself at the Page Street address.

Iris Canada Was Not “Evicted”

Many opponents advanced the narrative that Iris Canada was a tenant evicted by the applicants in 2017.³ But the verifiable facts show that in 2005, Iris Canada (with the advice of her own attorney) converted her tenancy into a deeded life estate in 670 Page Street. (Exhibits L and M.) As such, Ms. Canada was an owner of, not a tenant residing in, 670 Page Street. The City itself found this to be true in 2014 when it told the residents that they could not convert the units from TICs to condominiums without Ms. Canada’s signature because she was *the owner* of 670 Page Street. (Exhibit N and Exhibit J.)

The San Francisco Superior Court did not order that Ms. Canada be evicted from her unit. Rather, it found that her actions since 2012 resulted in the termination of her life estate, and that the Deed of Trust was foreclosed upon. (Exhibit K at 3:4-12.) Thus, Ms. Canada was the equivalent of a homeowner who moved out of her home and failed to make mortgage payments, resulting in a foreclosure by a lender. She was not a tenant, Mr. Owens was not her landlord, she had not resided there for five years, and she was not “evicted” in any legal or practical sense.

Iris Canada Had No Legal Representation

Speaker after speaker bemoaned the fact that the Superior Court entered a judgment against Ms. Canada even though she was not represented by an attorney. This is simply false. Iris Canada had no fewer than *ten attorneys* representing her during this dispute: Steve Collier (who, among other things, helped her negotiate the terms of the life estate), Tom Drohan, Robert DeVries, Mary Catherine Wiederhold, David Larson, John Cooke, Mitchell Abdallah, Michael Spalding, Steven MacDonald, and Dennis Zaragoza. (Exhibit O at ¶¶3, 7 through 10, 18, 20, 22 and 32.) Four of these attorneys are noted on the Superior Court’s records; i.e., the officially appeared in court on Ms. Canada’s behalf. (Exhibit P.) Not only was she represented, but some of her attorneys employed aggressive – even abusive – litigation tactics. They

³ The speakers and this Commission seem to treat all the applicants as one entity. Please keep in mind there are 11 separate applicants, and none of them other than Mr. Owens and his family members was a party to the litigation resulting in termination of Ms. Canada’s life estate.

defied court orders, sought to derail the litigation by filing papers not only in San Francisco Superior Court but also federal district court and federal bankruptcy court, and failed to comply with discovery obligations. (Exhibit O.) On at least five separate occasions, the San Francisco Superior Court imposed monetary sanctions on Ms. Canada's attorneys (and Ms. Merriouns) for their abusive conduct. (Exhibit K at ¶¶ 13, 14, 16 and 20.)

Even After Winning the Court Case, Mr. Owens Offered to Allow Ms. Canada to Resume Living at Page Street and to Waive His Award of Attorneys' Fees

Several speakers claimed that Mr. Owens demanded that Ms. Canada pay over \$100,000 in attorneys' fees if she wanted to move back in to her Page Street unit. This is directly contrary to the actual, verifiable facts.

At the conclusion of the litigation, the Superior Court ordered that Ms. Canada was responsible to pay Mr. Owens \$169,466.23 in attorneys' fees he incurred. (Exhibit Q.) When Ms. Canada sought to have the judgment set aside, the Superior Court – not Mr. Owens – said it would set aside the judgment if Ms. Canada paid Mr. Owens the \$169,466.23.

But Mr. Owens never sought that money from Ms. Canada. To the contrary, he repeatedly offered to let Ms. Canada move back to Page Street and forgive the money she owed under the court's order. This is extraordinary. After months of litigation, being demonized in the press, and having to resign his job as a result of this situation, Mr. Owens offered to let it all go. (Exhibit R ¶¶14 through 20.)

For example, in court in April 2016, Mr. Owens offered to restore Ms. Canada's life estate and waive the court's award of attorneys' fees in exchange for Ms. Canada cooperating in the condominium conversion process. Ms. Canada's attorneys advised her to agree to this generous offer, but her grand-niece convinced her to turn it down. (Exhibit R, ¶ 34.)

On June 30, 2016, Mr. Owens wrote to Ms. Canada. I strongly encourage you to read the letter, attached as Exhibit S, but here is the offer he made:

1. Peter, Carolyn and Stephen will forgive the \$169,466.23 legal fees due to us per condition #1 of Court Order dated April 27, 2016 and the related Order dated June 8, 2016.
2. Peter, Carolyn and Stephen will accept arrears payments made to date as "payment in full" through May 2016 per condition #2 of Court Order dated April 27, 2016.
3. Peter, Carolyn and Stephen will offer to strike condition #5 of Court Order dated April 27, 2016 and replace it with a simple promise from Iris Canada and her family to keep us apprised by email if Iris needs to or expects to be away from her home for an extended period of time.
4. All of the rights and responsibilities contained in the entire Deed of Trust, the Grant of Life Estate, the Promissory Note, and the Order dated April 27, 2016 will remain in effect, except as set forth by terms 1, 2 and 3 above.
5. Iris Canada will make herself available and execute all required condo conversion documents for 668-678 Page Street.
6. Iris Canada will cooperate as required for any and all additional work related to the condo conversion process for 668-678 Page Street, which includes the code compliance work and executing the follow-up declarations which must be completed approximately one year from now.
7. Peter, Carolyn and Stephen will guarantee Iris Canada that she will have no financial obligations related to the conversion process.
8. Peter, Carolyn and Stephen and the other building owners will guarantee that Iris Canada is not waiving any rights by signing the documents.
9. Peter, Carolyn and Stephen will work with Iris Canada and her family to make any reasonable accommodation to help Iris Canada age in place so long as it does not jeopardize their ownership rights following the Iris Canada's passing, however Iris Canada remains precluded from permitting any tenancies to be established at 670 Page Street.
10. Peter, Carolyn and Stephen, Iris Canada and the other building owners, will work in good faith to ensure a safe and peaceful environment at 668-678 Page Street for all residents, and especially for our elder Iris Canada.

On August 9, 2016, Mr. Owens wrote to Ms. Canada's grand-niece, Iris Merriouns, making a similar offer:

- Waiving all attorney's fees
- Accepting arrears payments
- Waiving all conditions of judgment
- Waiving all court ordered sanctions and penalties
- Setting aside the judgment
- Rights for a live-in caregiver
- Improvements to the unit
- Right of first refusal if unit is ever sold
- Guarantee of no liability or waiving of rights from cooperation
- Guarantee of no financial obligation from cooperation

(Exhibit T.)

But these offers were turned down, because Ms. Merriouns really wanted to use this situation to strongarm Mr. Owens into a forced sale at a windfall price.⁴ (Exhibit R, ¶¶37-39, Exhibit U and Exhibit V.)

In sum, Mr. Owens did everything reasonably within his power to let Ms. Canada to live out her days at Page Street. All his efforts were rejected. Ms. Merriouns likewise rejected all efforts the City put forward to assist Ms. Canada: "[Supervisor] Breed addressed the eviction on Twitter, saying that she had tried to help Canada for years, including offering housing options but Canada and Merriouns were not interested in the services Breed had offered." (Exhibit V.)

The Applicants Ask to be Treated Like All Other Applicants

As your January 11, 2018, staff report acknowledges, this application "meets the requirement for condominium conversion under the California State Map Act and the San Francisco Subdivision Code." No one has submitted any

⁴ Even though Mr. Owens had no interest in or obligation to sell the unit, as part of a settlement offer he did offer Ms. Canada and Ms. Merriouns the right to purchase after conversion – the same right a tenant would have had.

evidence calling these conclusions into question. As such, the City has no lawful basis for denying this application.

Two Commissioners suggested that this application should be denied because the Commission should only grant uncontested applications, or because condominium conversions do not preserve or enhance the City's supply of affordable housing. Regarding the first point, *all* the owners of *all* the units support this application. The opponents are not residents of the building or neighbors. Will the Commission turn down any application if an anti-condominium conversion activist appears before the Commission in opposition to an application? Even when the opponent's assertions are false? If so, the City should make applicants aware of that City policy.

Regarding the second point, if the Commission turns down this application because it is inconsistent with the Commission's views on affordable housing, will it turn down every conversion application? The legislation creating this conversion process expressly balances the need for maintaining affordable housing and strikes a balance under which conversions are permitted and substantial fees assessed, in part to address affordability concerns. (Exhibit W). This Commission does not have the authority to reject the wisdom of the Board of Supervisors in striking this legislative balance.

The applicants simply ask that the Commission apply the same rules to this application as it does to all the other conversion applications that come before it. The emotional appeal of the opponents' remarks is undeniably powerful. But, when the Commission separates fact from fiction, it should conclude that these applicants are entitled to convert their homes to condominiums.

Sincerely,



G. Scott Emblidge

cc: Members of the Planning Commission
David Weissglass
Jonas Ionin
Kate Stacy

EXHIBIT A

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SUPERIOR COURT -- STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

--oOo--

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWENS, an individual,

Plaintiffs,

vs.

NO. CGC-14-543437

IRIS CANADA, an individual, OLD
REPUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive,

Defendants.

DEPOSITION OF
IRIS MERRIOUNS
October 7, 2015

REPORTER: KYLE MCLEAN, CSR # 13787 JOB 17661

1 Q. I asked you why you stayed at 670 Page Street
2 last night, and you said "We decided to."

3 And I'm asking you who is the "we" that made
4 the decision that you were going to stay at 670 Page
5 Street last night?

6 A. My aunt and I.

7 Q. And what was the discussion that you had that
8 led you to the conclusion that you were going to stay at
9 670 Page Street last night?

10 A. Well, she had some things that she has to do to
11 her residence, and so we had an appointment there. And
12 so that's why we stayed there.

13 Q. So she typically does not stay there?

14 A. We're back and forth.

15 Q. So when you stay in 9969 Empire Road, your aunt
16 is with you?

17 A. Typically she's with me, and if she has an
18 appointment, she's over here and in San Francisco,
19 depending on who has the free time.

20 Q. Can she stay by herself?

21 A. I don't trust her to stay by herself,
22 especially at the Page Street address.

23 Q. So you don't feel comfortable leaving her at
24 the Page Street address alone?

25 A. My aunt suffered a stroke recently.

1 Q. We're talking about Iris Canada?

2 A. Yes, we're talking about Iris Canada.

3 Q. So she doesn't stay there by herself because
4 you don't feel comfortable that she can be there by
5 herself?

6 A. She suffered a stroke.

7 Q. I'm not questioning about the reasons for it.
8 I'm just trying to get an understanding of whether or
9 not she is able to take care of herself.

10 Do you think she's able to take care of
11 herself?

12 A. I think that Iris Canada should not stay on her
13 own. She's 99 years old.

14 Q. When was the last time that she was having an
15 evening by herself that you're aware of?

16 A. I don't leave her by herself ever.

17 Q. When did you start taking care of her?

18 A. Probably in 2014.

19 Q. In 2014?

20 A. Mm-hmm.

21 Q. So at this point -- so you're telling me that
22 you don't feel comfortable that your aunt can stay by
23 herself and it's been at least that way since 2014.

24 And is it fair to say that every night,
25 wherever you are, she's with you?

1 A. I have no idea.

2 Q. Was it more than half?

3 A. I have no idea. September of when? Last year?

4 Q. Last month.

5 A. Oh, I'm sorry. We are in October.

6 Q. How many months -- how many days of September

7 would you say that your aunt stayed with you on Empire

8 Road?

9 A. She stayed with me most nights. Wherever I am,

10 she is. We were in L.A. in September. We were in -- we

11 traveled most of the weekend. So she's with me.

12 Q. And why is she always with you?

13 A. Because she likes being with me.

14 Q. And she can't take care of herself? Or you

15 don't, at least, feel comfortable with her taking care

16 of herself?

17 A. Since she suffered the stroke at the hands of

18 her neighbors, no, I don't feel comfortable with her in

19 670 Page Street alone, if that's your question.

20 Q. When did she have her stroke?

21 A. She had her stroke on May 8th that was induced

22 by pounding on the walls from her neighbors at 670 Page

23 Street, that reside and own units at 670 Page Street.

24 Q. So it's your opinion that her neighbors caused

25 her to have a stroke?

1 Q. And she needs somebody with her in the
2 evenings, and she needs somebody with her during the
3 day?

4 A. I think it's -- since her stroke, yeah.

5 Q. And where does she spend the majority of her
6 days?

7 A. She attends an adult daycare program.

8 Q. And where is that at?

9 A. That's in Oakland.

10 Q. How does she get there?

11 A. Different ways. Sometimes she's transported
12 through a service and sometimes I take her. Sometimes
13 another relative takes her.

14 Q. You take her in the morning or you take her
15 like on your way to work?

16 A. She goes in the morning.

17 Q. They have a shuttle that comes --

18 A. Sometimes she goes in the afternoon. Sometimes
19 they pick her up.

20 Q. And how many days a week would you say she does
21 that? Three or four or five?

22 A. Four.

23 Q. Four days a week?

24 A. Yeah.

25 Q. How many times a month? Most every week?

1 Q. Most of the time?
2 A. She's usually with me.
3 Q. And when she stays at the residence at City
4 College, does she stay with you there?
5 A. No, I don't stay.
6 Q. You don't stay there with her?
7 A. No. But she's with a relative.
8 Q. Where does she stay when you're at Marion's
9 house?
10 A. She's with me. That's why I'm there.
11 Q. No, no. I'm sorry.
12 Where does Iris Canada stay when you're at
13 Marion's house?
14 A. She's there.
15 Q. So she will stay with you when you stay at
16 Marion's house?
17 A. Yes.
18 Q. So when was the last time that Iris Canada ever
19 stayed at 670 Page Street by herself?
20 A. She's not stayed at 670 Page Street by herself
21 for a while.
22 Q. A year?
23 A. When she's there, there are people there with
24 her.
25 Q. So the only time that you're comfortable with

1 her staying at Page Street is when somebody is with her?

2 A. Yes.

3 Q. And the majority of the time she's with you,
4 and she's either staying on Empire Road or she's staying
5 with Marion by City College?

6 A. Or other relatives. Sometimes she's in L.A.
7 If she's in L.A. -- she was with my Aunt Julia or with
8 my other aunt. When she was in Texas, she was with my
9 uncle.

10 Q. Who would you consider to be the person that
11 takes care of Iris Canada the most?

12 A. When she's in California, I would say it would
13 be me.

14 Q. You're the primary caregiver for her?

15 A. Yes. I would say since 2012, more since my mom
16 died because, prior to that, it's my mom.

17 Q. Does anybody help you?

18 A. Right now?

19 Q. Yeah.

20 A. It's very difficult.

21 Q. Do you get any help from Marion?

22 A. Yeah, Marion helps me.

23 Q. How often does she help you?

24 A. When she can.

25 Q. What does she do? Does she watch her for a

1 your aunt spent the night at Page Street?
2 A. Last night.
3 Q. And excluding last night and Sunday?
4 A. Exact dates, I can't give you exact dates.
5 Q. But it's before her stroke?
6 A. Yes.
7 Q. Prior to her having her stroke, were you still
8 taking care of her on a regular basis?
9 A. Pretty much.
10 Q. And that started around the summer of 2012?
11 A. No. In December of 2012 --
12 Q. Let's go back.
13 A. -- I was --
14 Q. I'll withdraw the question. I'll ask the
15 question a different way.
16 You remember on -- around July of 2012 there
17 was an incident when your aunt had gone missing.
18 Somebody was concerned that she was missing.
19 A. Excuse me?
20 Q. That she was missing.
21 A. My aunt has never gone missing.
22 Q. Somebody in the building was concerned that she
23 hadn't returned or she wasn't there.
24 A. Excuse me?
25 Q. Okay. What made you go over there that time in

1 Q. I'm going to show you a document.

2 Now, you're telling me you can't see this
3 because you don't have your glasses on?

4 A. I'm telling you that I can't read it because I
5 don't have my glasses on.

6 Q. From what you can make out, do you recognize
7 that? Have you ever seen anything that looks similar to
8 that before?

9 A. I cannot make this out, and I'm not going to
10 say that I've seen this because I can't make this out.

11 Q. So it's your testimony that the first time that
12 you ever learned that you had to appear at a deposition
13 was when we were in court and Judge Quidachay told you
14 that you needed to appear?

15 A. Yes. When I knew that I was subpoenaed --

16 Q. Very well. When -- so you had indicated that
17 besides the health reasons that you go to L.A., which is
18 recently, within the past few months or so, I guess
19 since May, you spend half of your time on Empire Road
20 and half of your time at the house -- or at the
21 residence by City College; correct?

22 A. Yes.

23 Q. And when you stay at 9969 Empire Road, Iris
24 Canada stays with you?

25 A. Yes.

EXHIBIT B

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7 Fax: 415.288.9755

8 Attorneys for Plaintiffs
9 Peter M. Owens
10 Carolyn A. Radisch
11 Stephen L. Owens

12 **SUPERIOR COURT - STATE OF CALIFORNIA**

13 **COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION**

14 PETER M. OWENS, an individual,
15 CAROLYN A. RADISCH, an individual,
16 STEPIEN L. OWENS, an individual,
17 Plaintiffs,

18 vs.

19 IRIS CANADA an individual, OLD
20 REPUBLIC TITLE COMPANY, a California
21 corporation, and DOES 1-10, inclusive,
22 Defendants.

Case No.: CGC-14-543437

**DECLARATION OF ANNA MUNOZ IN
SUPPORT OF PLAINTIFFS'
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF
SETTING BOND AMOUNT FOR STAY
PENDING APPEAL AND OPPOSITION
TO STAY PENDING APPEAL**

Date: November 1, 2016

Time: 2:00 p.m.

Dept: 502

Judge: Hon. A. James Robertson, II

23 I, Anna Munoz, declare as follows:

24 1. I have personal knowledge of the following facts discussed below and would
25 testify truthfully thereto if called to do so. I have lived at 676 Page Street, San Francisco,
26 California on a full time basis for approximately 6 years. My residence is located above 670
27 Page Street, which was Iris Canada's unit. 676 Page Street is my full time and only residence.

28 2. I used to see Iris Canada about once a week. She would often open her door as I was
entering the building and she would explain to me that she thought people were ringing her

1 doorbell. She often seemed worried and I would reassure her that it was just me entering the
2 building. One time, to my surprise, I saw her walking back up the stairs towards her unit. That
3 time she also said she thought she heard someone ring the bell. Every time I saw her, I would
4 take the time to chat with her and make sure everything was okay.

5
6 3. A young lady, whom I was told was a relative of hers, used to come to the unit to
7 check up on her on a regular basis, I would see her about once a week or every other week as
8 she would always either park in or block my driveway. I would always have to ring the bell
9 and ask her to move her car so that I can get in or out of my garage. On those occasions, I
10 would often see Iris Canada standing at her door waiting for the young lady. The last time I
11 ever saw the young lady, was the time that we found a dead rat placed just outside of her door.
12 I believe that it became evident to the relative at the time that Iris Canada could no longer live
13 alone and take care of herself or her home. Soon after that is when Iris Canada stopped residing
14 in the apartment and I haven't seen the young lady since.

15
16 4. In the last 4 years, I have only seen Iris Canada when she would arrive at the
17 building with Iris Merriouns. They would arrive, stay for a few hours and then leave and not be
18 seen again for several months. I always knew when they were here because Iris Merriouns
19

20 would park her car very near the building. This was either on the weekend or after working
21 hours. One example was the night Iris Canada was first served court papers. I witnessed them
22 arrive that evening and then leave after Iris Canada was served with court documents, not to be
23 seen again for months. There was also the time when Peter Owens changed the lock to the unit
24 and had a copy made for Iris Canada, my neighbors offered her the key when they arrived but
25 Iris Merriouns flatly refused it saying "I'm not taking that, I don't know what it is." Iris
26 Merriouns then proceeded to change the locks, without providing Peter Owens a copy, and left
27
28

1 with Iris Canada that same evening and again not to return for a long time. There were times
2 when packages were left on her door for very long periods of time. There was also the incident
3 where the smoke detector was sounding off inside her unit, something that continued around
4 the clock for over a month.

5 In more recent times, namely this year (2016), I have seen less of Iris Canada yet more
6 of Iris Merriouns with each time being around the same time that there would be a major event
7 such as a court hearing, namely a stay of execution or a public protest. Both would stay a
8 couple days leading up to the hearing and then leave after the hearing ruled in their favor. Not
9 to be seen again for a long time.

10 On May 31st, sometime after 6 pm, Abdoulla Yasef, her supposed "caretaker" came to
11 the building alone and somehow couldn't get into the unit because he misplaced his key. Peter
12 Owens, who was visiting at the time, ran into him and had a cordial conversation with him. At
13 the time, we were all in the Geoff Pierce's apartment next door having an HOA meeting and
14 witnessed this. After Abdoulla and Peter chatted for a bit, Abdoulla left and returned sometime
15 after 10 pm with both Iris Canada and a locksmith. Up to this point, I recall not seeing Iris
16 Canada for a long time. In the span of 2 – 3 months that Mr. Yasef was her "caretaker", this
17 was the only time I ever saw them together. I believe he was staying at the unit without Iris
18 Canada as I often witnessed him leave early in the morning and return usually after 6 pm. I no
19 longer see Mr. Yasef.

20 On June 27th, there was a three day protest at the building. While Iris Canada was
21 present during that time it appears that both Iris Merriouns and Iris Canada had left sometime
22 after it was over and I believe they returned briefly for Iris Canada's 100th birthday sometime
23 in mid July only to leave again shortly thereafter.

1 For five straight days, from September 8th – 12th, I saw the Sheriff's posting for
2 repossession of the unit taped on the door of 670 Page. At around 9:05 pm on the evening of
3 September 12th, my husband and I hear Iris Merriouns enter the building alone. She proceeded
4 to grab the mail as well as the Sheriff's notice that was on the door. I had looked out the
5 window and saw Iris Merriouns walking back to her car that was parked on the corner of Page
6 and Steiner next to a fire hydrant, which is about 100 feet from the building. She was alone and
7 carrying a bunch of mail in her arms. At the same time my husband went downstairs and saw
8 the notice removed from the door. At exactly 9:33pm my husband leaves the building and
9 witnesses both Iris Merriouns and Iris Canada enter the building and walk up the flight of stairs
10 and into the unit. By 9:45pm, the SFFD had arrived and entered the building. At around
11 10:15pm, I am looking out of my window to see what was going on and witnessed the
12 paramedics take her out of the building in a chair and move her into a gurney that was
13 stationed out on the sidewalk. With some assistance, Iris Canada was able to get up from her
14 seat and into the gurney. She was attentive, moving around and able to talk to both the
15 paramedics and her niece. She appeared fine and in absolutely no emotional distress at all. This
16 was the first time I had seen her at the building since the June 27th protests.
17
18
19

20 5. Based on my having lived at 676 Page Street San Francisco CA 94117 for 6
21 years, and having observed the comings and goings, sounds, and general neighborly
22 observations on an almost daily basis, I am firmly convinced that 670 Page Street has not been
23 Iris Canada's primary residence since approximately June 2012.
24

25 6. On June 27th and for two days following, there were protests at our building
26 organized by the Housing Rights Committee of San Francisco. On the first day people yelled at
27 us, flipped us off when we looked out the window and used a megaphone that was so loud we
28

1 could hear it at the back of the house. This was an attack specifically on the residents of the
2 building in an attempt to get us to persuade Peter to drop the lawsuit. People were projecting
3 hostility and anger towards us. I even heard one of the lead protesters who organized the event,
4 Tommi Avicolti Mecca, remind the crowd that they are not here to threaten us but to speak out
5 to the residents who could have some "influence" over the matter. Iris Merriouns was also a
6 part of the protests and spoke on the megaphone. According to Peter, she had lied to him and
7 told him she was not a part of it.
8

9 On the second day of the protest, my husband, baby and I leave as they are beginning to
10 assemble. As I exit the building, I asked Tommi Avicolti Mecca to stop harassing us.
11 Immediately, an unknown African-American lady starts shouting at me. I then turn to Tony
12 Robles, a staff member of the Senior and Disability Action, and asked him if he was Mexican.
13 To me he appeared Mexican and since I am also Mexican I was hoping to find a common
14 ground to discuss the situation. He immediately denounced my heritage and said "You sure as
15 hell don't look Mexican, you look white!" and proceeded to just taunt me. Because of the
16 protests, I didn't come home until late that evening. On the third and final day of the protests, I
17 didn't come home at all.
18

19 On September 22nd, we were literally ambushed with another protest in front of our
20 building. This one was much larger and much worse than the previous three day protest. There
21 were several people who had trespassed onto our roof and dropped a large red banner. My
22 husband told them to get off but they did not comply. Eventually my husband got on the roof
23 took it down and threw it over the building into our backyard. One protester jumped the fence
24 into our backyard and retrieved the banner only to put it back up a third time. At one point Iris
25 Merriouns, who was also a part of the protest, came up to the third floor landing and said that
26
27
28

1 they would like their banner back. Some words were exchanged and then she proceeded to yell
2 at me. A heated argument ensued between the both of us. I asked her to leave and told her she
3 was trespassing. It wasn't until I went back into my apartment that she finally left. The
4 situation made my heart race and left me frantic, scared and in tears. I've been an emotional
5 wreck ever since the most recent protests and will most likely need to seek some form of
6 therapy to get past this. My trauma has gotten to the point where even some of my coworkers
7 have noticed something is wrong. I now feel very threatened by Iris Merriouns and the hostility
8 that she is creating.
9

10 8. As a result of the continued legal proceedings and the harassment that has been
11 directed at us I have been experiencing a great deal of emotional trauma. It has affected my
12 mental health and that of my family. I have been experiencing depression, stress and anxiety. I
13 am currently on edge and living in fear that something dangerous will happen. Iris Merriouns
14 has been hostile to all of us. In May of 2015, she was hostile towards me when I asked her to
15 move her car out of my driveway, she refused to move and sat there and argued with me. She
16 has also given me dirty, threatening looks every time she sees see me, she has been hostile
17 toward my neighbors and now we have to endure the hostility that is coming from protestors in
18 front of our building. With the most recent protest, the situation has escalated into something
19 dangerous. I fear that something far worse will happen. I fear for the safety of myself, my
20 family and our property.
21

22 9. The inability to condo convert as a result of any ongoing litigation could potentially
23 put financial stress on me and my family. We may very well run out of time in the condo
24 conversion process should the litigations continue. Once the deadlines arrive, a moratorium
25 will set in and we will never again be able to convert. Additionally, banks only offer
26
27
28

1 Adjustable Rate Mortgages at higher interest rates than Fixed 30 yr loans. Those interest rates
2 could go up at any time, making our mortgage even more expensive. Condo conversion has
3 always been for the desire to save money. San Francisco is an expensive city to live in, made
4 even more expensive when one is trying to raise a child.

5 Since the last protest that occurred on September 22nd, I have witnessed that my neighbor's, as
6 well as another unknown person's, vehicle has been vandalized. I believe this is a direct result
7 of the hostility that has been increasingly generated by the previous protests and the ongoing
8 and unresolved litigation. I believe that my building and all who reside there are being
9 maliciously targeted.

10 10. On the early morning of September 23rd, at around 6 am and less than 24 hours
11 since the last protest, an unknown person(s) broke into my neighbor Geoff Pierce's car and
12 stole the remote to our garage. Geoff Pierce and I share the garage. We have evidence of this
13 via a Smart Home device that is installed on the garage door that logs when the garage door
14 opens as well as a video camera. The video camera filmed two individuals enter the garage at
15 two separate times early that morning.

16 11. On October 1st, a vehicle parked in front of my building and partially in my
17 driveway was also vandalized. The back window was fully broken and I could see all the glass
18 on the ground. I am not aware of who the vehicle belongs to. This vehicle was a black SUV
19 and could have easily been mistaken for a vehicle belonging to a resident in the building,
20 namely my neighbor, Jamie Pierce who also drives a black SUV type car.

21 12. About a week later (exact date unknown), my neighbor Jamie Pierce's car
22 window was broken when she was parked in a spot adjacent to my neighbor's driveway. This
23 happened late at night. I believe that her car was targeted because it's been previously
24

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SAN FRANCISCO, CALIFORNIA 94104

1 identified as belonging to a building resident. Jamie normally parks in front of the driveway
2 when not in the garage. Jamie and Geoff are no longer able to park their cars overnight in the
3 driveway as it is no longer safe to do so.

4 13. In the 6 years that I have lived at 676 Page Street, we have never experienced
5 this amount of vandalism in such a short amount of time. To my knowledge, never have our
6 cars been vandalized and never have I felt unsafe. I firmly believe that this is far more than just
7 a coincidence.
8

9 14. My previous fears that something would happen to our property has come to be
10 realized. We have suffered a great deal as a result of the continuous stays and I believe that we
11 will continue to suffer if this issue continues unresolved. My quality of life has diminished as a
12 result of the increased hostility, with the protests and vandalism, that has been projected onto
13 the building residents. I believe that if the situation continues unresolved, we will continue to
14 suffer as a result and that the suffering will only get worse. I no longer enjoy the peace and
15 tranquility of my own home that I once did. My home is supposed to be my sanctuary and that
16 has been violated. I live day-to-day waiting for the next hostile protest or break-in to occur.
17

18 I declare under penalty of perjury of the laws of the State of California that the
19 foregoing is true and correct.
20

21 I declare under penalty of perjury of the laws of the State of California that the
22 foregoing is true and correct.
23

24 DATED: October 26, 2016

25
26 
NAME

27 FAX SIGNATURE
28

EXHIBIT C

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 Andrew M. Zacks (SBN 147794)
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8 Attorneys for Plaintiffs
9 Peter M. Owens
10 Carolyn A. Radisch
11 Stephen L. Owens

12 **SUPERIOR COURT – STATE OF CALIFORNIA**

13 **COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION**

14 PETER M. OWENS, an individual,
15 CAROLYN A. RADISCH, an individual,
16 STEPHEN L. OWENS, an individual,
17 Plaintiffs,

18 vs.

19 IRIS CANADA an individual, OLD
20 REPUBLIC TITLE COMPANY, a California
21 corporation, and DOES 1-10, inclusive,
22 Defendants.

Case No.: CGC-14-543437

**DECLARATION OF JAMIE ANNE
PIERCE IN SUPPORT OF PLAINTIFFS'
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF SETTING
BOND AMOUNT FOR STAY PENDING
APPEAL AND OPPOSITION TO STAY
PENDING APPEAL**

Date: November 1, 2016

Time: 2:00 p.m.

Dept.: 502

Judge: Hon. James A. Robertson, II

23 I, JAMIE ANNE PIERCE, declare as follows:

- 24 1. I have personal knowledge of the following facts discussed below and would
25 testify truthfully thereto if called to do so.
- 26 2. I have lived at 668 Page Street, San Francisco, California with my husband,
27 (Geoffrey Raymond Pierce) on a full time basis since July, 2014. Our residence
28 is located directly adjacent to 670 Page Street, which was Iris Canada's unit.

**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
10/28/2016
Clerk of the Court
BY: CAROL BALISTRERI
Deputy Clerk

1 Based on the proximity of my residence to Iris Canada's I would have expected to
2 meet, be introduced to or even to hear our next door neighbor at some point. However it was
3 approximately 17 months before I even saw Iris Canada or her neice, Iris Merriouns at the
4 property, sometime in December 2014. In fact during that first year and half of living here at
5 668 Page Street I never heard people walking the length of the hallway, never witnesses
6 anyone coming or going from the entryway, never heard a television, radio, alarm clocks or
7 even people talking in the adjacent apartment.
8

9 The most glaring example of Iris Canada's not being present at the building occurred
10 on 12/13/14, my husband and I began hearing a shrill smoke detector signal coming from her
11 apartment. That piercing sound could be heard through my walls so on 12/15/14 my husband
12 kindly left a note on her door asking Iris to change out the battery on her smoke detector. The
13 alarm went off every minute of every day and was so loud that it would wake me up or
14 conversely, keep me from sleeping at all. The alarm remained on for approximately 6 weeks.
15 The sound was not something that someone living in the unit could have tolerated.
16

17 Additionally I was present on the evening of 1/31/15 when the locks were legally
18 changed by Peter Owens and subsequently illegally changed by Iris Merriouns later that
19 evening. At the end of that evening Iris Merriouns became very agitated and confrontational.
20 She yelled at all of the owners of the building and proceeded to call the police. At one point
21 she even yelled directly at my husband, she was very intimidating and aggressive in her attacks
22 on everyone present.
23

24 Since the beginning of 2015 I have only seen Iris Canada at the building on a handful of
25 occasions, for brief periods of time, usually not lasting more than 24 hours. Many of those
26
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1 sightings coincided with court case related news appearances or housing activist protests in her
2 honor.

3 Based on my having lived at 668 Page Street for 2 and half years, and observing the
4 comings and goings, sounds, and general neighborly observations, I am firmly convinced that
5 Iris Canada has not resided at 670 Page Street since I have lived here.
6

7 While the inability of the building to condo convert is certainly affecting my husband's
8 ability to provide financial security for our family, the mental anguish and stress that Iris
9 Merriouns has placed upon me personally are significant and should not go unreported.
10

11 On more than one occasion I have been yelled at, derided or intimidated by Iris
12 Merriouns directly. Additionally, on multiple occasions over the past several months Iris
13 Merriouns has organized large scale protests at our building; at one such protest one of her
14 supporters shouted at me and boo'd at me as I entered the building. As well I have been hissed
15 at by groups of people as I entered and exited the building on multiple occasions; Iris
16 Merriouns has left the front door open to the rest of the building open during these events. It is
17 apparent that the protesters that attend these rally's are not interested in the facts of the case it
18 is therefore easy to understand why this type of "protest" makes me feel VERY unsafe in my
19 home.
20

21 Approximately one month ago there was a protest of approximately 150 people at 8am
22 right in front of the building. People were yelling at the apartment building and I couldn't even
23 walk in front of our windows without being shouted at. The "protestors" then proceeded to
24 scale the adjacent construction site so that they could trespass on our rooftop and hang a banner
25 regarding their cause. I started to have a panic attack and call my husband to have him return
26 from work so that he could escort me out of the building. I was genuinely afraid there might be
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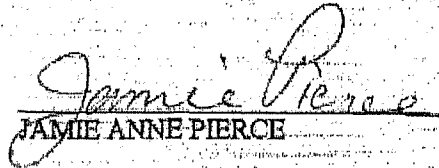
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SAN FRANCISCO, CALIFORNIA 94104

1 strangers in the building. Luckily my husband was able to return home and I was able to leave
2 for work shortly thereafter, albeit very late for work.

3 Ironically, that same night, my husband's car was broken into right outside of our
4 home. Needless to say, the recent escalation of tension associated with these protests as well
5 as the continued combative nature of Mrs. Merriouns has left me feeling very uncomfortable,
6 unsafe and nervous within the confines of my own home. I implore the courts to take action on
7 this matter so that I can once again feel secure in my home.
8

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

11
12 DATED: October 25th, 2016

13
14 
JAMIE ANNE PIERCE

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17 FAX SIGNATURE
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EXHIBIT D

ZACKS, FREEDMAN & PATTERSON, PC
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8 Attorneys for Plaintiffs
9 Peter M. Owens
10 Carolyn A. Radisch
11 Stephen L. Owens

12 SUPERIOR COURT - STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

14 PETER M. OWENS, an individual,
15 CAROLYN A. RADISCH, an individual,
16 STEPHEN L. OWENS, an individual,
17 Plaintiffs,

18 vs.

19 IRIS CANADA an individual, OLD
20 REPUBLIC TITLE COMPANY, a California
21 corporation, and DOES 1-10, inclusive,

22 Defendants.

Case No.: CGC-14-543437

DECLARATION OF GEOFFREY
RAYMOND PIERCE IN SUPPORT OF
PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITY IN SUPPORT
OF SETTING BOND AMOUNT FOR
STAY PENDING APPEAL AND
OPPOSITION TO STAY PENDING
APPEAL

Date: November 1, 2016

Time: 2:00 p.m.

Dept.: 502

Judge: Hon. James A. Robertson, II

23 I, GEOFFREY RAYMOND PIERCE, declare as follows:

- 24 1. I have personal knowledge of the following facts discussed below and would
25 testify truthfully thereto if called to do so.
- 26 2. I have lived at 668 Page Street, San Francisco, California on a full time basis for
27 approximately 8 years. My residence is located directly adjacent to 670 Page
28 Street, which was Iris Canada's unit.

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
10/28/2016
Clerk of the Court
BY: CAROL BALISTRERI
Deputy Clerk

1 Iris Canada's and I share an approximately 80 foot long common wall that stretches the
2 entire length of our unit. Upon moving to 668 Page Street I would typically see Iris Canada 3-4
3 times per week. Our interactions were always very cordial and I would regularly help her
4 retrieve mail from the landing just below ours. This type of common interaction continued for
5 approximately 4 years.
6

7 Beginning in the summer of 2012 I stopped seeing Iris Canada on a regular
8 basis. Between the summer of 2012 and the beginning of 2015, I only saw Iris Canada at the
9 building two times, once in late 2014 when her niece, Iris Merriouns, specifically brought her
10 to the building and proceeded to knock on my door to proclaim that Iris, "was in the
11 building". Additionally I saw Iris Canada at the beginning of 2015, on 1/31/15, when both she
12 and her niece came here to illegally change the locks on Peter Owen's unit without giving him
13 proper notification.
14

15 Since the summer of 2012 it seems that Iris Canada's mail has been redirected because
16 I have not seen her collect it since then. Several times over the past four years there have been
17 packages delivered to her doorstep which have remained undisturbed and uncollected,
18 sometimes for a period of several months. Many times during the course of this trial,
19

20 subpoenas from this court proceeding would sit uncollected for weeks at a time.

21 Based on the proximity of my residence to Iris Canada's and our shared common wall,
22 I used to hear typical residential sounds coming from her unit, not limited to people walking
23 the length of the hallway, television, radio, alarm clocks and talking and I would normally hear
24 people coming to visit her approximately once a week. Between summer 2012 and the spring
25 of 2015 I did not hear any such sounds emanating from her residence.
26
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1 The most glaring example of Iris Canada's absence from the building occurred on
2 12/13/14. On that day, my wife and I began hearing a shrill "low-battery" smoke detector
3 signal coming from her apartment. That very high-pitched and annoying sound could easily be
4 heard through my walls so on 12/15/14 I left a note on the door kindly asking Iris to change out
5 the battery on her smoke detector or to let me know if she needed help to do so. The alarm
6 went off each and every minute of every day and every night and was so loud from my
7 apartment that it would sometimes wake me up from a sound sleep or conversely, keep me
8 from sleeping at all. The alarm remained on until 1/21/15 (approximately 6 weeks after first
9 hearing it). By my calculations the alarm went off over 60,000 times and was not something
10 that someone living in the unit could have tolerated. The note that I had left on the door
11 remained there for the entire six weeks that the alarm was going off. I have photo
12 documentation of the letter that I left on the front door and the fact that it was still in the exact
13 same position almost 6 weeks later (a couple of days prior to 1/21/15, when the alarm battery
14 was finally replaced).

15
16
17 Additionally I was present on the evening of 1/31/15 when the locks were legally
18 changed by Peter Owens and subsequently illegally changed by Iris Merriouns later that
19 evening. In order to give access to the back door for Peter's locksmith, I entered the unit for a
20 total of two minutes and was able to observe mold growing in the bathtub and a toilet in which
21 the water had completely evaporated from the bowl, the stench of sewer gases coming from the
22 dry p-trap was not pleasant, nor livable. At 9pm that evening, Iris Canada was brought to the
23 building by Iris Merriouns. When I met Iris Canada and Iris Merriouns outside of 670 Page,
24 Iris Merriouns became very agitated and confrontational. She yelled at all of the owners of the
25 building and proceeded to call the police.
26
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1 Since the beginning of 2015 I have seen Iris Canada at the building on a handful of
2 occasions, for brief periods of time, usually not lasting more than 24 hours. Many of those
3 sightings coincided with court case related news appearances or housing activist protests in her
4 honor.

5 Since the spring of 2015, there has been a concerted effort on the part of Iris Merriouns
6 to clean up the apartment and make it look habitable including the arrival of a large cleaning
7 crew that entered the apartment to clear out junk and debris. Comcast cable was reinstalled at
8 the unit just a few days prior to Iris Canada's first television appearance. I have witnessed Iris
9 Merriouns sneak into the building past midnight to retrieve mail which was recently redirected
10 back to 670 Page Street, presumably in an attempt to re-establish the appearance of residency.
11 In the past six months Iris Canada's visits to the building have become more frequent but
12 usually coincide with a media interview, lawyer visiting her at her "home", protests being
13 staged in her honor or an impending or just concluded court hearing. Her visits are very brief
14 and upon departure it is usually several weeks before she next returns.

15 Based on my having lived at 668 Page Street for 8 years, and observing the comings
16 and goings, sounds, and general neighborly observations, I am firmly convinced that Iris
17

18 Canada has not resided at 670 Page Street since the summer of 2012.

19 The fact that our building has not been able to condo convert has, by my estimation,
20 cost me in excess of \$12,000 in higher mortgage payments which could have been lowered had
21 Iris Canada agreed to sign the condo conversion paperwork when it was first requested over
22 two years ago. By delaying the condo conversion further I have additional financial burdens
23 that could be induced by rising interest rates, diminished value of my home if I need to sell for
24 any reason until this matter is resolved and the real possibility that the current condo
25

1 conversion process may be suspended at which point my unit will NEVER be able to convert
2 since we are a 6-unit building which will not be eligible for conversion after the current
3 process is suspended. If this becomes a reality and my unit does not condo convert I will be
4 forced to accept having a variable rate mortgage for the rest of the time I own the unit which
5 could very well affect my financial stability, force me to sell my unit and potentially leave San
6 Francisco altogether. The longer these proceedings take to resolve, the larger and more real
7 these financial burdens become.
8

9 More importantly though, and the reason that I am taking the time to write this
10 declaration, is the fact that this litigation process has placed undue stress upon my family.
11 While there have been very tangible events like the time Iris Canada's fire alarm was going off
12 for 6 weeks and we could not sleep due to the disturbance, there has also been much more
13 severe emotional distress caused directly by Iris Merriouns and this litigation. On one such
14 occasion, Iris Merriouns and I passed each other in the main entryway to the building; she
15 purposefully stepped into my path of travel, pointed in my face and said in a menacing tone,
16 "You ain't seen NOTHING yet!" I felt very threatened by her presence and her tone of voice.
17
18

19 Additionally, on multiple occasions over the past several months Iris Merriouns has
20 organized large scale protests at our building; at one such protest one of her supporters shouted
21 at me, "I hope you die and go to hell!" As well I have been hissed at by groups of people and
22 booed as I entered and exited the building on multiple occasions, the protestors have even
23 shouted at my wife and I while we were in our living room, to the point where we left the
24 building altogether. The protesters that attend these rally's are not interested in the facts of the
25 case, they are driven by emotional sentiment amplified by Iris Merriouns' lies associated with
26 the circumstances of the case and in most cases are very angry individuals.
27
28

1 Approximately one month ago there was a protest of approximately 150 people at 8am
2 right in front of the building. My wife called me at work; she was in a panic and stated that
3 people had scaled the adjacent construction site so that they could trespass on our rooftop and
4 hang a banner regarding their cause. She was scared to leave the house due to the fact that she
5 thought strangers might be in the building and she requested that I return home from work (I
6 had left early that morning) to escort her to her car. I had to leave work to do just that,
7 something that I should never have had to do if it weren't for Iris Merriouns staging these
8 angry protests. To see my wife in a state of panic was unsettling and entirely unnecessary.

10 Ironically, that same night, my car was broken into right outside of our home. While I
11 have no evidence to prove that any of the mornings' protestors were involved in the break-in, it
12 is a curious coincidence that very well may be due to the fact that 150 angry people were
13 outside my home that morning. Needless to say the recent escalation of tension associated with
14 these protests the have left me and my wife feeling very uncomfortable, unsafe and nervous
15 within the confines of our own home.

17 In the span of one month since the protest was held, three cars have been broken into
18 while parked in front of our building, a highly unusual rate of break-ins for our neighborhood.

20 While it may simply be coincidence, it is possible that someone may have targeted our building
21 because of the animosity generated at the protests.

22 I hereby implore the court to take action on this matter. The facts of the case have not
23 changed, Iris Canada does not reside at 670 Page Street and she failed to maintain the unit in a
24 habitable condition. Despite countless reasonable attempts to restore Iris Canada's life estate
25 by Peter Owens, no agreement could be reached and the court ordered legal fees have not been
26 remanded to Peter Owens, the rightful owner of the unit. Iris Merriouns has recently escalated
27
28

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SAN FRANCISCO, CALIFORNIA 94104

1 her actions to include protest activities that preclude a safe living environment for my family.
2 Continued delay will only embolden Iris Merriouns to employ further tactics to obfuscate the
3 facts of the case, impede Peter Owen's due process as well as intimidate and financially harm
4 her aunt's neighbors. We all wish the outcome of this case was different but the duplicitous
5 behavior of Iris Merriouns throughout this litigation warrant that the court take immediate
6 action in Peter Owens' favor.
7

8 I declare under penalty of perjury of the laws of the State of California that the
9 foregoing is true and correct.
10

11 DATED: October 25th, 2016


12
13 GEOFFREY RAYMOND PIERCE

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16 FAX SIGNATURE
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28

EXHIBIT E

ZACKS, FREEDMAN & PATTERSON, PC
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7 Fax: 415.288.9755

8 Attorneys for Plaintiffs,
9 Peter M. Owens
10 Carolyn A. Radisch
11 Stephen L. Owens

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
10/28/2016
Clerk of the Court
BY: CAROL BALISTRERI
Deputy Clerk

12 SUPERIOR COURT - STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

14 PETER M. OWENS, an individual,
15 CAROLYN A. RADISCH, an individual,
16 STEPHEN L. OWENS, an individual,
17 Plaintiffs,

18 vs.

19 IRIS CANADA an individual, OLD
20 REPUBLIC TITLE COMPANY, a California
21 corporation, and DOES 1-10, inclusive,

22 Defendants.

Case No.: CGC-14-543437

**DECLARATION OF CHRISTOPHER
BEAHN IN SUPPORT OF PLAINTIFFS'
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF SETTING
BOND AMOUNT FOR STAY PENDING
APPEAL AND OPPOSITION TO STAY
PENDING APPEAL**

Date: November 1, 2016

Time: 2:00 p.m.

Dept.: 502

Judge: Hon. James A. Robertson, II

23 I, Christopher Beahn, declare as follows:

24 1. I have personal knowledge of the following facts discussed below and would
25 testify truthfully thereto if called to do so. Along with my wife, and our 2 children, I live at
26 674 Page Street, San Francisco, California. I have been residing at that address on a full time
27 basis for approximately 8 years. My residence is located directly above 670 Page Street, which
28 was Iris Canada's unit. 674 Page Street is my full time and only residence.

1 2. Seeing Iris Canada several times per week was a normal part of our lives. She
2 popped her head out whenever someone would come up the stairs, asking for help getting her
3 mail or just chatting. She loved to pet our dog, and talk about her years living in the building
4 with her husband James. She would show us his artwork and spoke about how he was a welder.
5 Then in July 2012, we were unable to get Iris to answer her door, and were understandably
6 concerned. We eventually discovered that her niece Iris Merriouns had removed Iris Canada to
7 Oakland due to the state of the apartment. We did not see Iris Canada again until late 2015.

9 3. The following are some examples of why we believe 670 Page Street was
10 unoccupied completely between July 2012 and late 2015. These are also why we believe Iris
11 Canada still does not reside in 670 Page Street.

13 4. We never saw Iris Canada. There was no discernable activity or sounds
14 emanating from the unit. Aside from some hired cleaners in July of 2012, we did not see
15 anyone remove garbage or recycling from the unit. The regular delivery of Meals on Wheels
16 ceased. There was no indication of regular mail service.

18 5. In December 2015, a loud beeping consistent with a smoke detector low battery
19 alert began sounding from 670 Page. It was clearly audible within the common stairwell and
20 within our own unit. This noise went on for more than a month before someone stopped by the
21 unit and fixed the issue.

23 6. We have a dog who requires multiple walks per day. So every night for the last
24 8 years I have taken him out after 9:00 PM for his final walk. For the first several years, we
25 would always hear the tv and see the flicker of its lights in Iris Canada's living room windows.
26 Then in July 2012, it became clear that the tv was no longer being turned on, and that the lights
27 in the unit never changed. The same lights were on for months at a time, with no adjustment or
28

1 change. If a light would go out, it would be out for months, presumably until a lightbulb was
2 changed, and then would come back on.

3 7. As many seniors are apt to do, Iris Canada's heat was always on. So much so,
4 that we barely used our own furnace for the first 4 years we lived in the building. This was
5 apparent due to the heat rising into our unit through the floors, as well as the furnace clearly
6 being on in the shared garage space where they are housed. The furnace and blower were
7 constantly running and clearly audible, and the temperature in the garage was constantly quite
8 warm. After July 2012, it became clear that the heat within 670 was no longer on. Our own
9 apartment returned to a normal temperature, as did the garage. I noted the furnace was clearly
10 no longer running whenever I was in the garage.

11 8. On several occasions, packages or letters were left in front of the door of 670
12 Page. These remained untouched for weeks or even months at a time.

13 9. When we did begin to see Iris Canada again starting in late 2015, it was only a
14 handful of occasions when she would be brought to the building by her niece Iris Merriouns.
15 These seemed to coincide with a reporter or camera crew coming to the apartment, and did not
16 last more than a few hours. In 2016 Iris Canada began returning for overnight stays, although
17 these also seemed to coincide with media events or protests outside of the building. She never
18 stayed more than a night or two, excepting one point when she seemed to have a live-in
19 caregiver in March. This did not last long, and soon the apartment was again inactive. Within
20 the last few weeks, Iris has been in the apartment more often.

21 10. We know when Iris Canada is in the building due to either seeing her or her
22 caregivers (usually Iris Merriouns), noting the tv/lights changing when we pass the apartment,
23 hearing and feeling her furnace being on, and by the smell of cigarette smoke in our apartment.
24

1 The cigarette smoke is particularly strong, and is of concern for our children. (Note: I assume
2 the cigarette smoke is coming from a caregiver, since we never saw or smelled smoke from Iris
3 Canada when she did live in the building.)

4 11. Based on my having lived at 674 Page Street for 8 years, and having observed
5 the comings and goings, sounds, use of the furnace, lack of changes in lighting and general
6 neighborly observations on an almost daily basis, I am firmly convinced that Iris Canada has
7 not resided at her residence with any consistency since approximately July 2012.
8

9 12. Since the end of 2015, the court case between Peter Owens et al. and Iris
10 Canada has resulted in a toxic environment at the building, especially when Iris Merriouns has
11 been present. On several occasions the police have been called, and there seem to be constant
12 verbal altercations between Iris Merriouns and various owners in the building. On a recent
13 occasion (September 22, 2016) when a protest was going on outside the building, I clearly
14 heard Iris Merriouns and Anna Apke (676 Page) screaming at each other. Anna Apke was
15 saying, "What did I ever due to you? This is harassment!" Iris Merriouns replied with a string
16 of expletives. Anna was home with their 3 year-old daughter and several protestors had
17 somehow gained access to our building and were right above her apartment on the roof.
18
19

20 13. On September 12, 2016, I encountered Iris Merriouns bringing her great aunt,
21 Iris Canada, up the stairs into the building. The apartment had been empty since at least the
22 previous Wednesday, September 7, which we know because there was a posting from the
23 sheriff that had to be removed in order to open the door to the apartment. A very short time
24 later paramedics arrived and took Iris Canada to the hospital.
25

26 14. All of these have led to a caustic environment, and have resulted in a great deal
27 of undue anxiety on the part of my wife and myself. During protests, my wife and I have
28

1 driven away from our home rather than have our children walk through the throngs of
2 protestors. My wife dreads walking into the building in fear of a confrontation with Iris
3 Canada's family, and has been under considerable stress from the whole situation.

4 15. Our neighbor's car has been broken into twice in September 2016 while being
5 parked in front of our building. Another similar looking car was broken into in front of our
6 building during this same period. Although vehicle crimes are not rare in our neighborhood, 3
7 in the exact same location and in the short span of a few weeks certainly seems excessive.
8 There were no other nearby cars similarly vandalized. During the protest on September 22,
9 2016, several protestors climbed onto the roof of our building. We have questioned our safety
10 within the unit, have installed alarms on our windows and have proposed security cameras for
11 the building.
12

13 16. It is worth noting that during all of this, we have been patiently waiting almost 2
14 years for the court case to run its course. We have been open to resolving this amicably. We
15 have reached out to our city Supervisor, London Breed, on multiple occasions to ask for
16 assistance in mediating some type of resolution. We have hosted a representative from her
17 office, and basically been told that there is little they could do. We have let Peter Owens know
18 that we were willing to accept modifications to the life estate, if it resolves the issue. He
19 attempted to negotiate a compromise, but has been led on and then rebuffed again and again by
20 Iris Canada on the advice of her family.
21


22 17. At this point, I have no hope that this issue will be settled. Instead, the
23 continued delays seem to invite increasingly aggressive protests and actions by Iris Canada's
24 supporters and family, and deepen our own concerns regarding our safety and the likelihood of
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235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 further criminal activity. Further, dragging out a resolution appears to be having negative
2 affects on Iris Canada's health, as is evidenced by her recent hospitalization.

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

5
6 DATED: October 24, 2016

7 
8 Christopher Beahn

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10 FAX SIGNATURE
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EXHIBIT F

ZACKS & FREEDMAN, P.C.
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 ANDREW M. ZACKS, SBN 147794
2 MARK B. CHERNEV, SBN 264946
3 ZACKS & FREEDMAN, P.C.
235 Montgomery Street, Suite 400
San Francisco, CA 94104
4 Tel: 415.956.8100
Fax: 415.288.9755

5 Attorneys for Plaintiffs
Peter M. Owens
6 Carolyn A. Radisch
Stephen L. Owens
7

8 **SUPERIOR COURT – STATE OF CALIFORNIA**
9 **COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION**

10 PETER M. OWENS, an individual,
11 CAROLYN A. RADISCH, an individual,
12 STEPHEN L. OWENS, an individual,

13 Plaintiffs,

14 vs.

15 IRIS CANADA an individual, OLD
16 REPUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive,

17 Defendants.
18
19

Case No.: CGC-14-543437

**AMENDED DECLARATION OF
MICHEL BECHIRIAN IN SUPPORT OF
AMENDED MOTION FOR SUMMARY
JUDGMENT OR IN THE
ALTERNATIVE SUMMARY
ADJUDICATION**

Date: December 22, 2015
Time: 9:30 a.m.
Dept.: 501
Judge: Hon. Ronald E. Quidachay

Action Filed: December 30, 2014
Trial Date: January 25, 2016

20
21
22 I, Michel Bechirian, declare as follows:

23 1. I am an individual over the age of 18. I have personal knowledge of the
24 following facts discussed below and would testify truthfully thereto if called to do so.

25 2. I have lived at 678 Page Street, San Francisco, California on a full time basis for
26 approximately 12 years. My residence is located two floors directly above to 670 Page Street,
27 which is Iris Canada's unit. 678 Page Street is my full time and only residence.
28

**ELECTRONICALLY
FILED**
*Superior Court of California
County of San Francisco*
10/05/2015
Clerk of the Court
BY:ROMY RISK
Deputy Clerk

1 3. When I first moved to 678 Page Street I would typically see Iris Canada
2 approximately 3-4 times per week on a regular basis. This continued for approximately 9
3 years. Our interactions typically involved neighborly chitchat, asking after her relatives and
4 church friends, I would sometimes bring Iris fresh produce from the farmer's market and Iris
5 Canada would also share stories with me about her youth. During the first few years of our
6 interaction, I would see Iris Canada venturing out with elderly relatives, typically to church on
7 Sundays.
8

9 4. Over the 9 years that I have known Iris Canada, I have been invited and entered
10 her apartment on numerous occasions, typically to help her with small jobs, such as changing
11 light bulbs and smoke detector batteries.
12

13 5. Beginning in the summer of 2012 I stopped seeing Iris Canada on a regular
14 basis. The last time I recall seeing Iris Canada living at her apartment was approximately June
15 2012. Since that time I have only seen Iris Canada at the building on two occasions, once in
16 late 2014 and another time on January 31, 2015. On both occasions Iris was accompanied by
17 someone I now know to be a relative. On the first occasion the relative, her niece, opened the
18 door to Iris's apartment and both went inside for a short time before leaving together. The
19 niece closed and locked the apartment door. I tried to talk with Iris – to ask after her health and
20 well-being, but was discouraged by the niece. Between the first time I saw Iris Canada and the
21 niece together and the second time, the locks on unit 670 were changed. This became apparent
22 when a San Francisco city electrical inspector could not be given access to the apartment using
23 the original emergency access key. As a result the owner Peter Owens notified Iris the locks
24 would be changed back to allow for emergency access. The second time I saw Iris Canada, the
25 niece opened the street door and attempted to open the door to Iris apartment. When the niece
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1 realized the locks had been changed back she called the police. The police instructed the niece
2 not to interfere with the new locks. After the police left the premises the niece called a
3 locksmith and had the locks changed again. For several hours Iris Canada was sitting in the
4 niece's car on a cold night. At some point later that night, Iris Canada was observed being
5 served court papers. Besides these two recent episodes, I have not seen Iris Canada at the
6 building or 670 Page Street since the summer of 2012.
7

8 6. During the time since I first moved into 678 Page Street I would see where Iris
9 Canada's mail was delivered on a regular basis. Iris Canada would often listen for the building
10 front door to open, or at least that is what I suspected. Iris Canada would then open her
11 apartment door and when she saw me we would make small chat for a few minutes. I would
12 often ask her if she would like me to collect her mail for her because the stairs gave her
13 difficulty. Since the summer of 2012 I believe that her mail has been redirected. On at least
14 two or three separate occasions I have seen packages from a medical delivery company remain
15 on her doorstep for months before they were removed.
16

17 7. For several years before 2012 San Francisco Social Services would deliver
18 prepared meals for Iris Canada (her gas stove had been discontinued earlier due to safety
19 concerns). Meal packages would be delivered to her door. Sometimes these would remain on
20 Iris's doorstep until the late evening when she would retrieve them. Iris would routinely leave
21 the remaining food packages on her doorstep for pick-up by Social Services. Shortly after June
22 2012 the food service stopped. I can only imagine someone contacted the city to suspend or
23 stop the service.
24

25 8. On a regular basis I would see the light of Iris Canada's living room turn on
26 around dusk. Since approximately June 2012 I have not seen the lights switch on or off at Iris
27
28

1 Canada's residence. After I saw Iris in January 2015 the hall light, and a light in a bedroom has
2 remained on. The lights are not switched off at daylight or switched on at dusk.

3 9. During my time living at 678 Page Street I would hear typical residential sounds
4 coming from Iris Canada's residence, not limited to television, radio, alarm clocks, and talking,
5 on a regular basis. I would normally hear the radio and television daily and would also hear
6 the telephone ring. I have not heard any sounds coming from the residence since June 2012
7 that would evidence that Iris Canada, or anyone else, was present or living at her residence.
8

9 10. The furnace for 670 Page Street, Iris Canada's residence is located in a shared
10 garage in our building. Iris Canada's furnace would typically and constantly cycle on and off,
11 as furnaces are designed to do. I have not observed or seen any evidence that Iris Canada's
12 furnace has cycled on in over 2 years.
13

14 11. I first realized I had not seen Iris Canada for some time in June 2012. Because I
15 would typically see her on a daily basis, after a few days of not seeing her, I became concerned
16 for her well being and asked my neighbors if they had seen her, to which none had. I discussed
17 my concerns in greater detail with one neighbor, Chris Beahn, and we agreed that based on our
18 shared concerns for her health and well being, we should check on her, and if necessary, enter
19 her apartment to perform a check on welfare by using the emergency keys, which we have for
20 such situations. Repeatedly over the course of several hours, Chris Beahn and I knocked on
21 the front door, used the door buzzer and called out to Iris. When it was apparent Iris was not in
22 the apartment or unable to respond we opened the door using the emergency key and before
23 entering first announced ourselves as Michel and Chris her neighbors. When there was no
24 response and we could not hear any movement, Chris and I entered the unit. On entering the
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1 apartment we saw rotting food, trash, roaches, and both dead and dying vermin caught in traps.

2 There was no sign of Iris Canada.

3 12. In mid-July of 2012 relatives of Iris Canada arranged for exterminators to come
4 to the apartment and address the infestation. Cleaners were hired to deal with the trash, and
5 multiple refuse sacks were filled and removed from the apartment. I have no knowledge of Iris
6 Canada returning to the residence since that time.

8 13. The gas to the stove in Iris Canada's apartment was disconnected several years
9 ago because of the fire hazard presented by the continued vacancy at the apartment.

10 14. Approximately December 15, 2014 I began hearing a low battery smoke
11 detector signal ringing, which I was able to determine was coming from Iris Canada's
12 apartment. That signal went on for approximately five weeks. At no point was there any
13 interruption of the low battery signal until January 21, 2015.

15 15. On January 24, 2015 I observed an envelope posted on Iris Canada's door at
16 670 Page Street. The envelope remained there, undisturbed, until January 31, 2015.

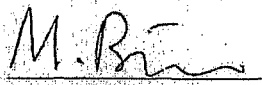
18 16. I recall Iris Canada coming to the residence on January 31, 2015 with someone I
19 understood to be her niece. I met Iris Canada and her niece outside the building, along with
20 several other neighbors and Iris Canada appeared disoriented and unsure of what was
21 happening around her.

22 17. Based on my having lived at 678 Page Street for almost 12 years, and having
23 observed the comings and goings, sounds, and general neighborly observations on an almost
24 daily basis, I am firmly convinced that Iris Canada has not resided at her residence since
25 approximately June 2012.
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235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

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

3
4 DATED: October 2, 2015

5 
6 Michel Bechirian

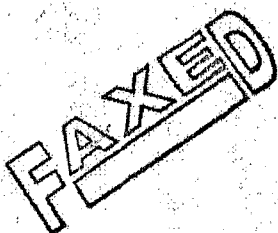
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EXHIBIT G

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 Andrew M. Zacks (SBN 147794)
2 Mark B. Chernev (SBN 264946)
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6 Tel: 415.956.8100
7 Fax: 415.288.9755

8 Attorneys for Plaintiffs
9 Peter M. Owens
10 Carolyn A. Radisch
11 Stephen L. Owens

12 SUPERIOR COURT - STATE OF CALIFORNIA

13 COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

14 PETER M. OWENS, an individual,
15 CAROLYN A. RADISCH, an individual,
16 STEPHEN L. OWENS, an individual,
17 Plaintiffs,
18 vs.
19 IRIS CANADA an individual, OLD
20 REPUBLIC TITLE COMPANY, a California
21 corporation, and DOES 1-10, inclusive,
22 Defendants.

Case No.: CGC-14-543437

DECLARATION OF ALEXANDER APKE
IN SUPPORT OF PLAINTIFFS'
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF SETTING
BOND AMOUNT FOR STAY PENDING
APPEAL AND OPPOSITION TO STAY
PENDING APPEAL

Date: November 1, 2016
Time: 2:00 p.m.
Dept.: 502
Judge: Hon. James A. Robertson, II

23 I, Alexander Apke, declare as follows:

24 1. I have personal knowledge of the following facts discussed below and would
25 testify truthfully thereto if called to do so. I have lived at 676 Page Street, San Francisco,
26 California on a full time basis for approximately 4 years. My residence is located 2 floors
27 above and one over from 670 Page Street, which was Iris Canada's unit. 676 Page Street is my
28 full time and only residence.

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
10/28/2016
Clerk of the Court
BY: CAROL BALISTRERI
Deputy Clerk

1 2. When I first moved into 676 Page Street, I would regularly see Iris Canada at
2 least 3 times a week. She opened the door to her unit 670 Page Street whenever someone
3 opened the building front door or when I walked down the stairs and past her unit. We used to
4 have conversations about the weather, recently visiting friends and relatives, and her home.
5 Particularly she liked talking about when she moved from the top floor of the building down to
6 670 Page Street. I always helped her bringing the mail from the mailboxes on the ground floor,
7 up to her unit on the first floor.
8

9 3. Iris Canada had regular Meals on Wheels deliveries that suddenly stopped, and
10 deliveries of what appeared to be medicine sat in front of her door for months. Both the
11 stopping of meals and the drug deliveries piling up occurred in the summer of 2012. At the
12 time, everyone in the building asked each other when we had last seen Iris Canada. I distinctly
13 remember someone coming to visit Iris Canada at the time, and I couldn't help them, telling
14 them that I hadn't seen her in a while.
15

16 4. In the past 4 years, I have only seen Iris Canada in or around the building
17 perhaps a total of 6-7 times. She has stayed overnight in the building maybe at most three
18 times, usually leaving with Iris Merriouns early the next day.
19

20 5. Since I primarily work from home, over the past 4 years, I have been able to
21 observe Iris Merriouns pick up Iris Canada's mail or other deliveries relatively infrequently,
22 initially every few months or so, and only increasing to approximately once a month in the past
23 year or so. I have also seen Iris Merriouns intercept the mail person to get the mail without ever
24 stepping into the building. I have never seen Iris Canada with Iris Merriouns whenever the mail
25 was removed from the premises.
26
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1 6. On May 6th, 2015 and separately on January 9th, 2016 I noticed that all the
2 lights to 670 Page were off and looked at the 670 Page Street PG&E electricity meter in the
3 garage said there was no service, all the other meters to other units had service. The power was
4 subsequently restored the next day in each case, but not before someone shows up from
5 somewhere else, without a sighting of Iris Canada. In one instance, I saw Iris Merriouns leave
6 the building, in another I only heard that one of the other residents of the building saw the door
7 ajar and heard noises from inside the unit.
8

9 7. On March 14th, 2016, a Comcast truck was in front of the building to install
10 service at 670 Page Street. This was about 5 days before someone with a camera showed up,
11 presumably to take pictures of Iris Canada watching tv in her home. Not long after I read a
12 news article or blog post showing a photo of Iris Canada and a TV in the background with a
13 comment stating that one of her hobbies is watching TV. The year before, around October
14 15th, 2015, Comcast was required to move their outdoor cable service box at our building 668-
15 678 Page due to it blocking the new construction project at 690 Page Street at the time. The
16 only unit in the building that had active cable service was 674 Page Street when the box was
17 relocated.
18

19 8. On September 12th 2016 at 9:04 pm, two days before the sheriff was scheduled
20 to reposes 670 Page and 5 days after the undisturbed posting was on the door, I heard the
21 building door and then a few seconds later a mailbox open. I rushed down the stairs from my
22 unit and noticed that the sheriff's posting was removed, and quickly snapped a photograph of
23 the apartment door without the posted notice. While I was going down the stairs I heard mail
24 being ruffled, and the building door open and close again just about when I took the picture.
25 About 30 minutes later at 9:33 pm, I was leaving the building and ran into both Iris Canada and
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27
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1 Iris Merriouns, they were at the building door just when I opened it. Immediately upon Iris
2 Merriouns seeing me, she angrily asked "Can I help you?", I said no as I continued to exit the
3 building. Iris Canada did not appear in distress at the time, and was being helped into the
4 building by Iris Merriouns. The building door closed behind them, and I took out my phone, re-
5 opened the building door, and took a picture of both Iris' walking up the stairs without the
6 sheriff's notice on the front door of 670 Page Street unit. 10 minutes later, my wife Anna calls
7 me to get back home ASAP since the paramedics were at and in the building. I rushed home,
8 saw the ambulance and heard the paramedics inside 670 Page Street. Both front doors were
9 open, to the building and 670 Page. I continued upstairs back to my unit and later came back
10 down to walk my dog. The paramedics were still in 670 Page and as I was walking down, I
11 briefly heard the paramedics say that they would be taking Iris to the hospital for observation.
12 As I was walking the dog, I saw the ambulance leave and saw Iris Merriouns get into her car,
13 which was parked in front of a fire hydrant, and drive away.
14

15
16 9. The inability to condo convert has impacted my family in a number of ways. I
17 am unable to get a fixed mortgage as Tenancy In Common mortgages are only available as
18 adjustable rate and also have significantly higher interest rates compared to standard 30 year
19 fixed mortgages. Not only do I pay more, but I will have to worry about the Federal Reserve
20 Bank interest rate increases. I also will be required to refinance every few years to avoid large
21 ballooning interest rates on my mortgage. My two year old daughter is nearly ready to enter
22 school, but I am concerned about having the financial stability to be able to save for school,
23 other learning expenses, and later even college tuition. This also is a concern with being able to
24 save for retirement.
25
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1 10. With the behavior and general negativity of Iris Merriouns, I am concerned with
2 the welfare of my home and family. I especially worry anytime I leave the building that
3 something might happen when I am not home. My first interaction with Iris Merriouns, was
4 when Iris Canada disappeared and everyone was wondering what happened to her, it set the
5 tone for all future encounters. I simply asked what happened to Iris Canada, we hadn't seen her
6 in a while, and the acrimonious response from Iris Merriouns was, "I don't know you", and
7 initially didn't want to answer at all, and then said she was fine.
8

9
10 11. There have been 2 separate incidents where the media and a number of tenant
11 rights advocates, have picketed in front of our building. Both times, I was concerned about
12 what some of these people were capable of doing, not only during the protests, but later even
13 after they left, many of them seemed angry enough to escalate their actions beyond the protest
14 alone. Many of the protestors were not peaceful as they claimed they would be. Making
15 statements that I wouldn't want my or any other child to hear, yet my daughter could and did
16 hear it.
17

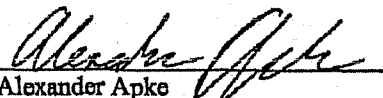
18 12. The most recent of the two protests on September 22nd. There was a very large
19 protest of over 100 people. At least 5 or possibly more individuals trespassed on my roof to put
20 up a very large banner, and despite me telling them that they were trespassing and that they
21 needed to take down their banner. They ignored my request, and continued with their rally.
22 Even after going onto the roof to take down their banner, I was chased by one of the protesters
23 who demanded their banner back. A policeman that saw what happened and was less than 15
24 feet away from the incident told the protester that they needed to get down off of my roof
25 before they would get their banner back. A minute or two later, the same person jumped over
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235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

1 or crawled under a fence into my back yard to take the banner, and subsequently trespassed on
2 my roof again to put up the same banner. When I went on the roof to once again attempt to take
3 the banner off of my home, this time they had reinforcements, and didn't take it down until
4 after the mob started moving down the street. In fact, our garage was broken into the next
5 morning after the protest on September 23rd, suspiciously. While we can't be sure that the two
6 events are linked, in the 5 years I have lived at 676 Page, this is the first time we ever had a
7 break-in, less than a day after a large protest at the building. In particular, as a result of the
8 trespassing and actions of the protestors, I am concerned for the safety of my home and family.
9

10 I declare under penalty of perjury of the laws of the State of California that the
11 foregoing is true and correct.
12

13 DATED: September 26, 2016
14

15 
16 Alexander Apke
17

18 FAX SIGNATURE
19
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EXHIBIT H

Attorney Or Party Without Attorney (Name and Address) MARK B. CHERNEV, ESQ. (264946) ZACKS & FREEDMAN, PC 235 Montgomery Street, Suite 400 San Francisco, California 94104		Telephone: (415) 956-8100	FOR COURT USE ONLY
Attorneys for: PLAINTIFFS		Ref. No. Or File No. W2652043	
Insert name of court, judicial district and branch court, if any: SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE CITY AND COUNTY OF SAN FRANCISCO			
Plaintiff: PETER M. OWENS			
Defendant: IRIS CANADA			
DECLARATION	Date: 10/12/2015	Time: 10:00 a.m.	Dept./Div: WOJ
		Case Number: CGC 14 543437	

MEALS ON WHEELS OF SAN FRANCISCO

1375 Fairfax Avenue
San Francisco, CA 94124

RECORDS PERTAINING TO: **IRIS CANADA**
 670 Page Street
 San Francisco, CA

1. ☒ **CERTIFICATION OF RECORDS COPIED** (Custodian's Initials: RMC)

- a. I am a duly authorized Custodian of Records, or other qualified witness, for the above-named business. As such I have the authority to certify these records.
- b. The photocopied records submitted herewith are true copies of all records described in the Deposition Subpena/Authorization.
- c. To the best of my knowledge, all such records were prepared or compiled by the personnel of the above-named business in the ordinary course of business, at or near the time of the acts, conditions, or events recorded.
- d. No documents have been withheld in order to avoid their being photocopied. If we have only part of the records described in the Deposition Subpena/Authorization, such records as available are provided.

2. ☐ **CERTIFICATION OF NO RECORDS** (Custodian's Initials: _____)

- a. I am a duly authorized Custodian of Records, or other qualified witness, for the above-named business. As such I have the authority to certify these records.
- b. A thorough search has been made for the documents described in the Deposition Subpena/Authorization and, based on the information provided to us for identification, no such records were found.
- c. No copies of records are transmitted because we do not have said records.

If no records, please explain

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on (date) 9-30-15 at (place) San Francisco, California.

Print name: Robin Meese-Cruz Signature: Robin L. Meese-Cruz

Witnessed: Albrantley

DECLARATION OF CUSTODIAN OF RECORDS

W2652043

C.C.P. 1985-1997, 2018-2021
Evid. Code 1560-1566; etc.



MEALS ON WHEELS OF S.F.
HOME DELIVERED MEALS CLIENT CHANGES

DATE: 7/6/12

☒ H/C DAYS: M TUE W TH F S S

FROZ: MON/THUR TUE/FRI

CLIENT'S NAME: Iris Canada ROUTE #: 2-wa DIET: veg diabetic

ADDRESS: 670 ~~ST~~ page st.

CANCEL: X (UFN) RESUME: _____ DIET CHANGE: _____

SPECIAL DEL: _____ NEW START: _____ SCHEDULE CHANGE: _____

MESSAGE: clnt getting house fumigated. niece will
call to resume next week.

CALLER: Helen Brackford RELATIONSHIP TO CLIENT: niece PHONE: Redacted

TAKEN BY: Crystal MSC CHANGES: (C) NUTRITIONIST: _____ COMPUTER: (M)

PROG MGR: _____ NEW CLIENT PKG: _____ DRIVER RESPONSE REQUESTED: _____

05/07

MEALS ON WHEELS OF S.F.
HOME DELIVERED MEALS CLIENT CHANGES

DATE: 10-2-12

☒ H/C DAYS: M TUE W TH F S S

FROZ: MON/THUR TUE/FRI

CLIENT'S NAME: IRIS CANADA ROUTE #: 2-WA DIET: D

ADDRESS: 670 PAGE ST

CANCEL: 10-2 RESUME: PERM DIET CHANGE: _____

SPECIAL DEL: _____ NEW START: _____ SCHEDULE CHANGE: _____

MESSAGE: OTHER-UFN 7-6-12

CALLER: _____ RELATIONSHIP TO CLIENT: _____ PHONE: _____

TAKEN BY: AB MSC CHANGES: _____ NUTRITIONIST: _____ COMPUTER: G1 10/3

PROG MGR: _____ NEW CLIENT PKG: _____ DRIVER RESPONSE REQUESTED: _____

05/07



Home Delivered Meal Service Name: CANADA, IRIS

Meals On Wheels of San Francisco

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InActive Inactive ▼

Start Date: 12/3/2007 ☐

Key Client: ☐

Stop Date: 10/2/2012 ☐ Signature Letter

No Donation Letter: ☐

Status: Other ▼

FLL: ☐

Oven: Select ▼

Fridge: Select ▼

Log History Note:

Change Requestor:

Save

Type	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Hot:	1	1	1	1	1	0	0
Cold:	0	0	0	0	0	0	0
Frozen:	0	0	0	0	0	0	0
H.D.C.:	0	0	0	0	0	0	0

Diet: Diabetic ▼ Disabled: ☐

Grant/funding: No Contribution Letter ▼

Route group: MOWSF ▼

Route ID: 2-WA ▼

Del Seq: 137

Alt Route ID: ▼

Cross Street:

Frequency: Weekly ▼ Current week is (Even)

Residence directions: Please help carry the food inside if necessary.

Client Details:

Special Notes:

Thanks Giving

No Meal ☐ Yes Meal ☐ Hot ☐ MS ☐

Save

Suspensions period

No.	Reason	Description	Susp. Start	Service Resumed
1	other	house fumigated	7/9/2012	10/02/2012

Bill to :Title/First/last Mr. ▼

Address:

City

State: ▼

Zip:

Telephone:

Save

Client Note (You Have 0 Notes)

SSC Form Client Details Restricted diet Direction Delivery Order Kitchen and Driver list Meals Scheduler
Alternate Services

EXHIBIT I

ANDREW M. ZACKS, SBN 147794
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**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
10/01/2015
Clerk of the Court
BY: ROMY RISK
Deputy Clerk

SUPERIOR COURT – STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWENS, an individual,

Plaintiffs,

vs.

IRIS CANADA an individual, OLD
REPUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive,

Defendants.

Case No.: CGC-14-543437

**DECLARATION OF PETER M. OWENS
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT OR IN THE
ALTERNATIVE SUMMARY
ADJUDICATION**

Date: December 22, 2015
Time: 9:30 a.m.
Dept.: 501
Judge: Hon. Ronald E. Quidachay

Action Filed: December 30, 2014
Trial Date: January 25, 2016

I, Peter Owens, declare as follows:

1. In August 2002, my wife, brother and I bought the six-unit building commonly known as 668-78 Page Street in San Francisco. I lived in Unit 672 and later in Unit 668 with my brother Christopher from the fall of 2002 until the fall of 2003 while we renovated 5 of the 6 units in building. All five units were sold as TIC units over summer and fall of 2003.

2. The only unit we did not renovate was Unit 670. It was occupied by Iris Canada, a then 86-year-old woman who had lived there many years. Over the time I was there,

1 I became well acquainted with Iris Canada and visited her often. I particular, I remember we
2 threw a party for her 87th birthday in our apartment. She came with her old friend "Mr.
3 Charlie". Though in her late 80's she danced and sang told stories from the 50's when she was
4 a young woman in San Francisco. We became quite fond of her over this time. Although not
5 required to do so, and to the best of our knowledge unprecedented, during 2004 and 2005 we
6 negotiated a life estate for Iris Canada with her attorney at the time, Stephen Collier of the
7 Tenderloin Housing Clinic. The life estate agreement enabled her to remain living in the unit
8 for less than she had been paying for rent. One important term of the life estate was that Iris
9 Canada permanently reside at 670 Page Street as the sole and only occupant. The benefit of
10 the Life Estate was always intended to benefit Iris Canada and Iris Canada alone. It was
11 designed to allow her to continue to live in the unit, as she had for many years, as long as she
12 could take care of herself. The sole residency requirement was also intended to prevent other
13 people unknown to us from moving in the unit and taking advantage of Iris and potentially
14 undermining our intent.

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18 3. In 2003 I moved back to Hanover, New Hampshire, where I currently reside.
19 Although I have not lived at 668-78 Page Street for quite some time, I am aware that other
20 residents living at the property would see Iris Canada on a regular basis, and look after her.
21 Additionally, I have continued to keep in touch with Iris Canada through cards and telephone
22 calls, typically around her birthday as well as other times during the year. I would estimate
23 that I generally corresponded with Iris Canada approximately six times per year.

24
25 4. In November 2005 I had a telephone conversation with Iris Canada where she
26 had indicated to me that her stove was broken, and that she had broken her arm in two places.
27 After hearing of her injury, I became concerned about her welfare, and hired a social worker,
28

1 Sara Madigan, with the Community Health Resource Center, to check on Iris Canada. After
2 her first home visit with Iris Canada, Sara Madigan indicated in her report that Iris Canada
3 *"reports that her nieces and friends help her with food, housekeeping, errands and doctors*
4 *appointments. She is connected with Western Addition Senior Center, gets 'meals on wheels'*
5 *delivered meals and uses their transportation as well as the city paratransit program. There is*
6 *some clutter in her home (photo albums, boxes and papers). She reports her nieces don't have*
7 *time to help her or physically cannot. Says she cannot afford to hire someone to help her*
8 *clean. She does not qualify for low income or free assistance as her income is too high. I*
9 *believe she could afford a housekeeping service or a homecare agency, they charge between*
10 *\$12-20/hour. She is experiencing some social withdrawal, isolation and possibly depression*
11 *but she did not feel she wanted any assistance in addressing these. Says she will contact*
12 *Western Addition Senior Center if she needs anything."*
13

14
15 5. In October 2006, I received a call from Melissa Dubasik in Unit 672 informing
16 me that Iris had been showing signs of forgetfulness and possible dementia. Iris Canada had
17 locked herself out of her apartment several times and required a locksmith to get her back
18 inside. Melissa Dubasik had contacted Iris Canada's niece, Bertha Johnson, who arranged to
19 have keys made and left with Alexandra (next door neighbor at the time) and Melissa Dubasik
20 (who lived upstairs) in case it happened again.
21

22 6. Up to approximately 2007, Iris would always send me greeting cards or notes
23 along with her monthly life estate payments. The last note I received from Iris was on June 30,
24 2007. That note stated *"Hello Peter and Family. About to make another birthday. I am doing*
25 *OK. Trying to get ready for Church and get this mail off to you. God bless. Love to all, Iris."*
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1 Monthly checks continued for the next five years however I never received another note after
2 that one.

3 7. In August 2007 I received an email from Melissa Dubasik reporting an incident
4 where Iris had unwittingly left the gas to the stove on. For obvious reasons associated with the
5 safety of Iris Canada, the other residents, and the building as a whole, this incident greatly
6 concerned me. The source was only discovered after considerable panic and the help of a
7 fireman. Melissa Dubasik was very concerned also because *"The smell of gas was very strong.
8 What if she had left her unit with the stove on or just forgot all together and none of us were
9 home to check on her? As much as I like Iris I cannot but help feel she is unable to look after
10 herself based on other similar situations that have occurred over the years. Right or wrong the
11 perception is you bear a level of responsibility for her and the unit. This stems from the fact
12 that you have been so kind to her over the years. I do not want to sound harsh or insensitive
13 however I think we all agree that our safety and the safety of the building are of the utmost
14 importance."*

15 8. By January of 2009 the incidents of leaving the gas on had continued, and
16 gotten so bad that the other tenants in the building contacted Adult Protective Services about
17 Iris Canada. I received a letter dated January 26, 2009 from Larry Henderson (Worker #4354)
18 informing me of seven documented incidents of gas being left on or Iris Canada's apartment
19 being filled with smoke. While he had hoped to have the stove gas line capped (requiring work
20 to be performed by PG&E and a site visit), he was only able to temporarily shut off the gas
21 valve to protect her. *"I was working with client's niece (also named Iris [Iris Merriouns],
22 discussed infra) who was supposed to be working on the issue, but I have not heard back from
23 her in some time now. At this point, I need to close the case."* To the best of my knowledge,
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1 from this point forward Iris Canada no longer used her stove, nor was the stove able to be used
2 in its current state, and Iris Canada and depended on family members and social service
3 providers to bring her meals.

4 9. While I have received no direct contact from Iris Canada after 2007, I did
5 continue to get updates on her welfare from time to time from Michel Bechirian, my long time
6 neighbor and building partner who was also very friendly with Iris Canada.
7

8 10. On July 12th 2012 just after midnight (EST), I received an email from Michel
9 Bechirian reporting that Chris Beahn (Iris Canada's upstairs neighbor) had discovered Iris
10 Canada had gone missing earlier that evening. Chris Beahn was worried about Iris Canada
11 and was forced to use the spare key to gain access to her apartment that evening to perform a
12 check on welfare. Chris Beahn discovered that Iris Canada was not there. I tried calling her
13 niece Bertha Johnson but was told I had the wrong number.
14

15 11. Four days later, Michel Bechirian informed me that he was able to reach another
16 niece of Iris Canada, Iris Merriouns. Michel Bechirian indicated that Iris Merriouns came over
17 to break some family news, Iris Merriouns saw the state of the apartment, and quickly took Iris
18 Canada away. At that time, Iris Merriouns arranged for an exterminator to come to the
19 apartment and to return periodically for the next month to address an obvious infestation
20 problem that had developed. Iris Merriouns also explored the idea of disposing of a lot of the
21 accumulated junk from the apartment, possibly by renting a mini dumpster. Iris Merriouns
22 also mentioned there was a problem with a hole in the sheet-rock in the apartment and she also
23 inquired about the Food Bank Center located next door. It was at this point it became clear to
24 Michel Bechirian that Iris Canada was at a stage where she was no longer reasonably able to
25 look after herself.
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1 12. My first contact with Iris Canada's niece, Iris Merriouns, was by phone on
2 September 15th 2012. She confirmed with me that the apartment had become overrun with
3 roaches and vermin and that she was forced to move Iris Canada out of the apartment, and to
4 live with her at her residence in Oakland until she was able to have the apartment
5 professionally exterminated and cleaned up for habitable use. Iris Canada never moved back
6 into the Premises.
7

8 13. Iris Merriouns asked many questions about her aunt's tenancy. She seemed
9 particularly interested in her Aunt's "purchase of the condo." I explained her that it was not a
10 condo but a TIC unit. I also explained that the granting of the Life Estate was limited to the
11 specific benefit of her Aunt so long as she lived there on her own and that it was materially
12 different from a standard real estate purchase. She did not seem to understand this distinction
13 and kept talking about "Bertha" (another niece) telling her Aunt Iris Canada had bought the
14 unit. I suggested consulting an attorney to have it explained and told her I would send her all
15 the documents for her review. I followed up that call by sending Iris Merriouns an email on
16 Sunday September 16th in which I reiterated the nature of the Life Estate and the associated
17 financial terms. I also attached all the life estate documents. From that point forward (Fall
18 2012), each and every one of the life estate payments, arrived by mail with an Oakland
19 postmark.
20
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22 14. I heard nothing from either Iris Canada or Iris Merriouns for approximately a
23 year after that. In April 2013, the life estate payments stopped coming. I made approximately
24 three or four phone calls, leaving messages, and also sent an email or two to Iris Merriouns,
25 each and every one of which went unreturned. Additionally, the phone number I had for Iris
26 Canada at 670 Page Street had been disconnected. Four months later, when we returned from
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1 our summer vacation in early August, we found a voicemail message left by Iris Merriouns on
2 July 21st. It detailed a long story about how she had not been well and was unable to respond.
3 I sent her an email and left a phone message on August 4th. Again they were not returned. On
4 August 17th 2013, I once again emailed Iris Merriouns again asking for clarification on the
5 status of Iris Canada, her living arrangements, and the status of the months of overdue life
6 estate payments, and advised her that her Aunt (Iris Canada) was in violation of the Life Estate.
7 I once again, attached the related Life Estate documents. I did finally receive a phone call in
8 return that same day (August 17th) in which she explained she had health issues and promised
9 to send all the back payments by FEDEX the next day. She also said she would give me an
10 update on the long-term status of her Aunt as soon as she was back on her feet. Eight days
11 later (August 26th), after no FEDEX package had arrived, I once again emailed Iris Merriouns
12 for an explanation. Again, I received no response. Finally a FEDEX package with the overdue
13 payments was delivered on September 3rd. However, no explanation of the plan for her Aunt
14 was ever received. And more to the point, it had been over a year since the person we had a
15 contractual agreement, namely Iris Canada herself, had left the unit and disconnected her
16 phone. Since her move out in early July 2012, Iris Canada had made no effort to contact me,
17 explain her behavior, or provide me a means to contact her.
18
19
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21 15. I travelled to San Francisco in late May of 2014 to be at the property for a San
22 Francisco City building inspection in conjunction with the TIC association's application for
23 sub-division of building. On that date, I entered 670 Page Street, Iris Canada's apartment.
24 Upon entering the unit, I made a number of observations that strongly evidenced that no one
25 had been living there for a very long time. First, the toilet bowl was bone dry, as all of the
26 water from the bowl had evaporated. The bathtub in the bathroom had mold in it and also had
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1 obviously not been used for a very long time. Rodent traps and roach traps lined most all of
2 the walls of the apartment and virtually all of the furniture was stacked up in the center of the
3 back rooms. It was patently obvious nobody had used the furniture in a very long time.
4 Additionally, the beds were covered with bags of old clothes, evidencing that nobody had used
5 either the clothing or the beds in a very long time. The refrigerator was completely empty
6 except for about two-dozen Dr. Pepper cans that I could not determine how long they had been
7 there. There was vermin excrement on top of all of tables and all of the shelves in the kitchen,
8 also evidencing that nobody had been in the apartment for a very long time. Large piles of
9 trash blocked the back porch door, and there were rolls and rolls of urine-soaked and feces-
10 infested carpeting. The smell alone was horrendous, further evidencing that nobody had lived
11 in the apartment for a very long time. The calendar in the kitchen displayed the month "July
12 2012." The only mail I was able to observe was a 2013 holiday card from Chris Beahn,
13 located on the front hall bookcase and unopened. Virtually all of the lights had been left on. I
14 cannot emphasize enough the very strong and unpleasant stench that permeated the entire unit.
15 Six true and correct copies of photographs accurately representing the condition of 670 Page
16 Street from this visit are attached to the Exhibits in Support of Plaintiffs' Motion for Summary
17 Judgment ("Exhibits") collectively as Exhibit E.
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21 16. After seeing the decrepit state of 670 Page Street and it being obviously both
22 unlived in and unlivable, I sincerely wondered if Iris Canada was even alive. I called her niece
23 Iris Merriouns and left a message asking if I could see her. Iris Merriouns called me back and
24 we set up a time to meet at a Starbucks in Oakland on Saturday morning May 31, 2014. At the
25 meeting, Iris Canada was there, along with Iris Merriouns, and Iris Canada looked well and
26 seemed to remember me. In the course of conversation, Iris Merriouns informed me that Iris
27
28

1 had been living with her in Oakland since 2012 and was attending a day program at a senior
2 center during the week, while Iris Merriouns was at work. Iris Merriouns told me it was
3 difficult for her to do activities and personal errands on weekends, because she had to care for
4 her aunt, Iris Canada. For example, she told me that later that Saturday Iris Merriouns was to
5 attend some kind of event or meeting and she had no choice but to bring Iris Canada with her.
6 Iris Merriouns also asked me not to discuss the state of the apartment with Iris Canada because
7 it would upset her. I agreed, but told Iris Merriouns that I would be in touch with her to
8 discuss mandatory and necessary repairs to the unit to make it habitable and safe for human
9 occupancy, to discuss the pending sub-division and associated paperwork, and the status of Iris
10 Canada's residency.

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13 17. Over the course of that summer, namely 2014, I tried no less than 24 times to
14 contact Iris Canada thru Iris Merriouns by phone, email, and text message, all to discuss her
15 tenancy, the state of the unit, and the subdivision paperwork of the building.¹ While I received
16 several text messages from Iris Merriouns promising a response soon, there was never any
17 follow-up. Finally, on September 14, 2014, I emailed Iris Merriouns advising her that due to
18 the lack of any response whatsoever from Iris Canada, who remains the holder of the life estate
19 and responsible person, I had no choice but to turn the matter of the life estate, the lack of
20 residency, the state of the apartment, and the general lack of all communication and
21 cooperation regarding the occupancy, over to my attorney. Iris Merriouns called me back
22 immediately. I asked to speak with Iris Canada and she put her on the phone. I spoke briefly
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26 ¹ The subdivision process of converting the building from TIC to condominiums requires that all occupants sign
27 certain paperwork. As a result of Iris Canada's life estate, she is a necessary party to sign the paperwork. The
28 conversion process, and the eventual conversion itself, would have no impact on Iris Canada's residency, life
estate, or her right to occupy the Premises for the remainder of her life. Additionally, Iris Canada's life estate
would have continued to be personally honored by me, and the conversion itself would have had no effect on her
ability to reside at the Premises.

1 with Iris Canada, and as soon as I started to ask her about her the status of the apartment and
2 her occupancy, Iris Merriouns immediately took the phone away from her. That was the last
3 time I have spoken to Iris Canada.

4 18. Most recently, this past fall and winter of 2014, I remained in close
5 communication with my neighbors at the property. It became abundantly clear from multiple
6 observations that Iris Canada was not residing at 670 Page Street, and that she had not lived at
7 there since at least as early as June or July of 2012.

9 19. Over the course of this past fall and winter, 2014, I sent three certified letters,
10 on September 10, 2014, September 30, 2014, and December 15, 2014, all to Iris Canada at 670
11 Page Street requesting that she please contact me. I have received no response to any of those
12 letters.

14 20. Due to the lack of response to my requests to contact me to address the
15 conditions and state of the apartment, I made arrangements with a contractor to fix the most
16 egregious of the damages and work identified as code violations by the SF Dept of Building
17 Inspection back at the end of May 2014. I sent and an email to Iris Merriouns on September
18 14th and a certified letter on September 30th notifying Iris Canada of the planned work, stating
19 that since she had not resided there since July 2012, I assumed that scheduling the work would
20 not be a problem and asking her to contact me if she had any questions. Upon notification by
21 the contractor regarding a date certain for the work to begin, I sent an email to Iris Merriouns
22 asking her to advise her Aunt that work would be starting on Tuesday or Wednesday of the
23 following week. When the contractor arrived on Wednesday October 8th to start the work, he
24 was unable to access the unit because the key wasn't working. I sent Iris Merriouns an email
25 that day, asking her to inform her Aunt that the lock was not working and advise her that we
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1 would have it repaired and would reschedule the work for the following week. I received a
2 voicemail the next day (October 9th) and an email on October 13th admitting she had
3 unilaterally changed the locks without notice to us, to prevent any access to the unit to "protect
4 her (Aunt's) privacy." Despite repeated requests via email, no key was provided to us, the
5 owner of the unit. As a result of the refusal of Iris Canada to cooperate with our efforts to
6 repair the unit's deficiencies, we have been unable to make needed repairs.

8 21. On October 22, 2014, my wife and I were in San Francisco for a conference and
9 visited 670 Page Street, also to check on the building and meet with our co-owners. We
10 confirmed that other than Iris Canada showing up at Geoff Piece's door for a "photo-op" the
11 week before, not a single resident of the building had seen Iris Canada in well over two years.
12 Every resident of the building unanimously agreed and confirmed that 670 Page Street, Iris
13 Canada's unit, had been unoccupied since Iris Canada had moved out in 2012.

15 22. During the final week of October 2014, the neighbors at the property emailed
16 me to inform me that a bundle of packages delivered to Iris Canada at 670 Page had been
17 sitting outside the front door, and that the packages had remained unclaimed at the door for at
18 least 5 days.

20 23. During the second week in November 2014, the neighbors again sent me notice
21 of multiple failed UPS delivery notices, which also had been posted on Iris Canada's door.
22 These notices remained on Iris Canada's door unclaimed for days.

24 24. Around December 13, 2014, a next-door neighbor and resident of the building,
25 Geoff Pierce, began to hear the beeping of a smoke alarm in Unit 670, Iris Canada's unit.
26 Geoff Pierce informed me that had repeatedly knocked on the door and left numerous notes
27 taped to the door, however all of his efforts went unanswered for weeks and the later
28

1 determined low battery smoke alarm beeping went off constantly. The notes left by Geoff
2 Pierce were finally retrieved and the noise stopped on January 21, 2015, after remaining and
3 pinging for well over a month.

4 25. Because the locks had been changed at 670 Page Street, and I was not provided
5 a set, as the owner, on January 24, 2015, I sent Iris Canada a "Notice of Emergency Entry"
6 informing her that due to her non-response to multiple written notices requesting emergency
7 access to unit 670, we would be re-keying the lock at 10:00 a.m. on January 28, 2015, and
8 replacement keys would be immediately available. The Notice of Emergency Entry was also
9 posted to Iris Canada's front door, where it remained posted for a week.
10

11 26. On January 28, 2015, at 10:00 a.m. the locksmith came to change the locks. Iris
12 Canada was not there, nor did she make an appearance. In order to give the locksmith access
13 to the rear door, Geoff Pierce passed thru the unit and observed conditions essentially identical
14 to my observations in May 2014, eight months earlier. The toilet bowl remained bone dry.
15 There was still mold in the bathtub. The furniture was still stacked in the middle of the back
16 rooms and the refrigerator was still empty except for the cans of Dr. Pepper, which were in the
17 identical same place. The only difference at all in the entire apartment was the addition of a
18 new package of smoke alarm batteries on the main shelf, which has obviously been used in an
19 effort to cease the low battery beeping. Three true and correct copies of photographs
20 accurately representing the condition of 670 Page Street on this January 28, 2015 visit are
21 attached to the Exhibits collectively as Exhibit F.
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25 27. To the best of my knowledge, since she moved out in June of 2012, Iris Canada
26 has come to the property only three times; October 14, 2014, December 9, 2014 and January
27 31, 2015. Each time, a neighbor emailed me to alert me to the fact that she was on the
28

1 premises. Each time she was in the company of her niece, Iris Merriouns, and each time she
2 stayed on the premises for only a short time, an hour or less. Since her last appearance on the
3 evening of January 31, 2015 to the best of my knowledge, Iris Canada has not been on the
4 premises.

5
6 28. Since the initial drafting of this declaration in April 2015, to the best of my
7 knowledge, Iris Canada has appeared only once more at the apartment. On May 8th, 2015 I
8 was notified by one of the building's residents that she was in the apartment for about 2.5
9 hours in the late afternoon. One of the other residents photographed Iris Canada and Iris
10 Merriouns leaving in a late model black Mercedes SUV at approximately 7pm. That evening I
11 received a short email from Iris Merriouns complaining about one of the security cameras in
12 the front hall (three security cameras were installed by the building owners several weeks
13 earlier in response to security concerns in the neighborhood). I have had no other contact with
14 either Iris Canada or Iris Merriouns. All contact has been handled by my attorney as a result of
15 the pending litigation.
16

17
18 29. The condition of the apartment described in paragraph 14 are recorded in a
19 series of photographs from late May 2014 (Exhibits, Exhibit F). Correction of the described
20 deficiencies and damages to the apartment have not been remedied due to non-cooperation of
21 Iris Canada to have the work done (see paragraphs 19, 20, and 25). The primary costs to
22 remedy these deficiencies are attempts to get into the units to do the work, and not the work
23 itself. The costs incurred were related to fully noticed attempts to access the unit on October 8,
24 2014 and January 28, 2015 was approximately \$600. This includes \$512 for a locksmith and
25 about 2 hours of wasted contractor time trying to access the unit. As access was never
26 successful, the work remains uncompleted.
27
28

1 30. On or about June 14, 2005, my business partners and co-plaintiffs in this action,
2 Stephen Owens, Carolyn Radisch, and I, all entered into a sales agreement ("Bill of Sale")
3 whereby Iris Canada was granted a life estate equivalent to a 16 2/3 interest in the property
4 commonly known as 668-670-672-674-676-678 Page Street, San Francisco, California, and
5 specifically occupancy in the unit known as 670 Page Street, San Francisco, California, in
6 exchange for monetary consideration in the amount of \$250,000. Additionally, Defendant
7 made, executed, and delivered to my partners and I a promissory note, dated October 6, 2005,
8 ("Promissory Note") evidencing the finance agreement for the purchase of the life estate. My
9 partners and I are the holders of that Promissory Note. A true and correct copy of that
10 complete Bill of Sale and associated complete Promissory Note are attached to the Exhibits in
11 support of Plaintiffs' Motion for Summary Judgment or in the Alternative Summary
12 Adjudication ("Exhibits") as Exhibits A and C respectively.

15 31. Pursuant to the terms of the Bill of Sale and the Promissory Note, my partners
16 and I executed and delivered to Iris Canada a grant of life estate ("Life Estate") granting Iris
17 Canada, for the term of her natural life, for as long as she permanently resides, as the sole and
18 only occupant, the property known as 670 Page Street, San Francisco, California. The Life
19 Estate was recorded at the San Francisco Assessor-Recorder's office on October 19, 2005 as
20 DOC-2005-I0544455-00. A true and correct copy of that complete and entire Life Estate is
21 attached to the Exhibits as Exhibit B.

24 32. To secure the payment on the Promissory Note, and as part of the transaction,
25 Iris Canada made, executed, and delivered to my partners and myself, as beneficiaries, a deed
26 of trust ("Deed of Trust"). The Deed of Trust was executed on October 6, 2015 by Iris Canada,
27 and was duly recorded at the San Francisco Assessor-Recorder's Office, as DOC-2005-

1 I054456-00 on October 19, 2005. My partners and myself are the holders of that Deed of
2 Trust. A true and correct copy of that complete Deed of Trust is attached to the Exhibits as
3 Exhibit D.

4 33. The Grant of Life Estate sets forth certain terms, conditions, and covenants of
5 significance to this action. First, as a term and condition of the life estate itself, Iris Canada is
6 required to permanently reside at the premises (Grant of Life Estate, Exhibit C, Page 1, second
7 to last paragraph). Second, the life estate may be revoked if Iris Canada fails to make the
8 payments as required by the Promissory Note or if Iris Canada violates the terms of the Deed
9 of Trust. (Grant of Life Estate, Exhibit C, Page 2, Paragraph 1).

10 34. The Deed of Trust sets forth certain terms, conditions, and covenants of
11 significance to this action. First, the purpose of the Deed of Trust is to secure payment of the
12 Promissory Note between myself and my partners, and Iris Canada. (Deed of Trust, Exhibit C,
13 Page 1). Second, the Life Estate may be revoked if Iris Canada violates the terms of the Deed
14 of Trust. (Deed of Trust, Page 2, Paragraph 1) Third, the Deed of Trust sets forth that in the
15 event the Grant of Life Estate is revoked due to a violation by Iris Canada of one of the
16 terms, all obligations secured by the Deed of Trust, at the option of myself and my partners,
17 shall become immediately due and payable. (Deed of Trust, Exhibit C Page 1, last paragraph).
18 Fourth, Iris Canada agrees to keep the Premises in good condition and repair and to not commit
19 or permit waste to occur at the premises. (Deed of Trust, Exhibit C, Page 2, Paragraph A.1.).

20 35. The Promissory Note sets forth certain terms, conditions, and covenants of
21 significance to this action. First, if Iris Canada breaches any term, condition, or covenant of
22 the Deed of Trust, the balance of the Promissory Note debt which remains unpaid at that time,
23 shall become due and immediately payable at the option of myself and my partners.
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1 (Promissory Note, Exhibit B, Page 1, last paragraph). Second, in the event an attorney is hired
2 to enforce payment pursuant to the Promissory Note, Iris Canada agrees to pay all such
3 expenses and attorney's fees associated with enforcement. (Promissory Note, Exhibit B, Page
4 2). As of the issuance of Notice of Default (discussed *infra*) the outstanding balance owed by
5 Iris Canada pursuant to the Promissory Note is \$171,600.00.
6

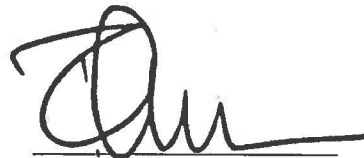
7 36. On November 3, 2014, by way of my counsel, Iris Canada was served with a
8 Notice of Default, via Certified Mail, ("Notice of Default") informing her of the default of her
9 obligations under the Grant of Life Estate and the Deed of Trust, as a result of her failing to
10 permanently reside at the Premises as well as her permitting the Premises to fall into disrepair
11 and failure to maintain the property in good condition and repair. Additionally, Iris Canada
12 was informed of my partners' and my election to revoke the life estate and the demand the
13 accelerated payments due pursuant to the terms of the Deed of Trust and the Promissory Note.
14 A true and correct copy of that Notice of Default with Certified mailing is attached as Exhibit
15 D.
16

17 37. I am firmly convinced that Iris Canada has not resided at 670 Page Street since
18 late June/early July of 2012—a period of over 3 years. Prior to mid-2012, observers report a
19 steady pattern of visitors coming and going from the apartment, social encounters, concerns
20 being raised about Iris Canada's well-being, meals being brought in, lights going on and off,
21 coming and going to doctor's appoints, errands run—in short the typical residential activities
22 related to an elderly person living on her own. After the well documented "move out" of Iris
23 Canada in late June/early July 2012 due to the horrific conditions found in the apartment, these
24 activities ceased. Since that time, the apartment has remained frozen time, lights left on, toilet
25
26
27
28

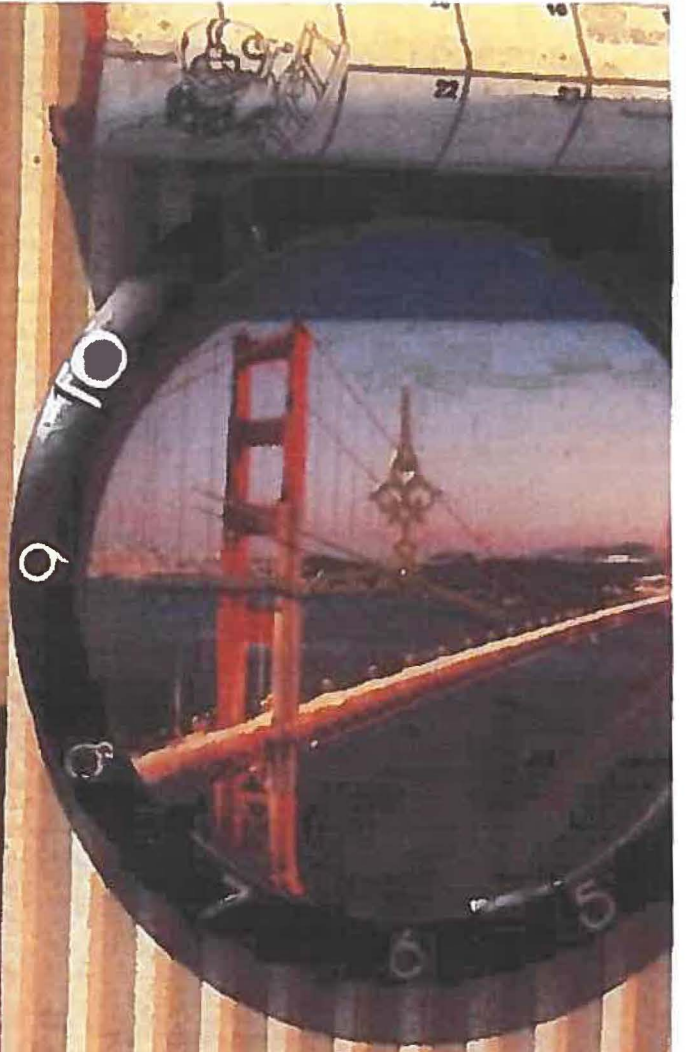
1 bowl water evaporated, refrigerator empty/unchanged, furniture piled up, and calendar showing
2 July 2012.

3 38. There is a substantial body of evidence that prior to 2012, Iris Canada was no
4 longer able live on her own in the apartment. The sequence of documented events over the
5 preceding seven years (between 2005 and 2012), suggests an individual who is increasingly
6 unable to live independently as the 'sole and only occupant' of 670 Page Street. By June 2012,
7 when her niece moved her out at age 96, her residency in the unit had become a clear a danger
8 to herself and to the other residents of the building. More than three years later, with now
9 Iris's 99th now having turned 99 in July, there is simply no scenario where she could move
10 back into the unit and reside independently without once again endangering both herself and
11 her neighbors.
12
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15 Dated: September 30, 2015

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18 Peter Owens
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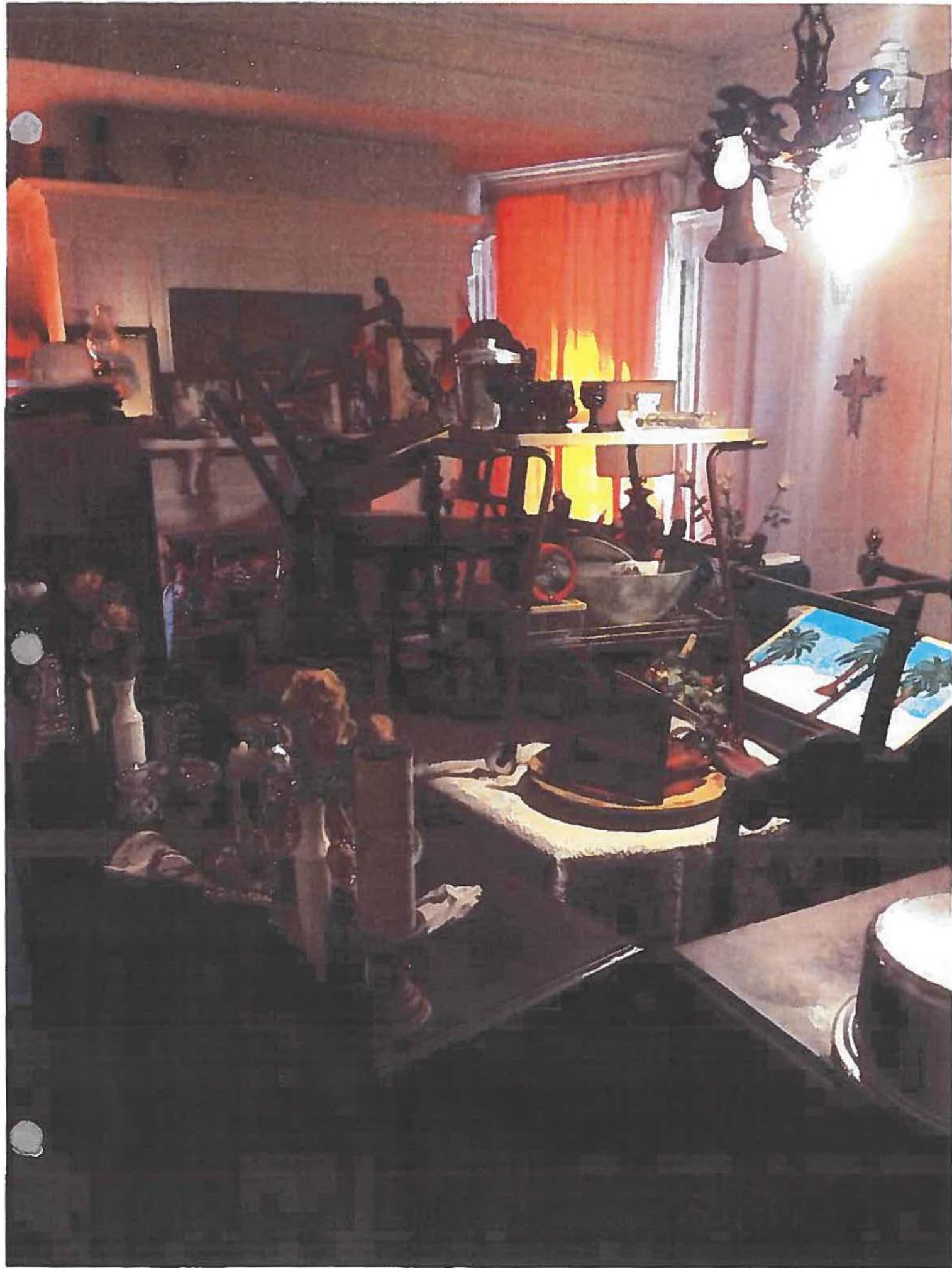
FAXED



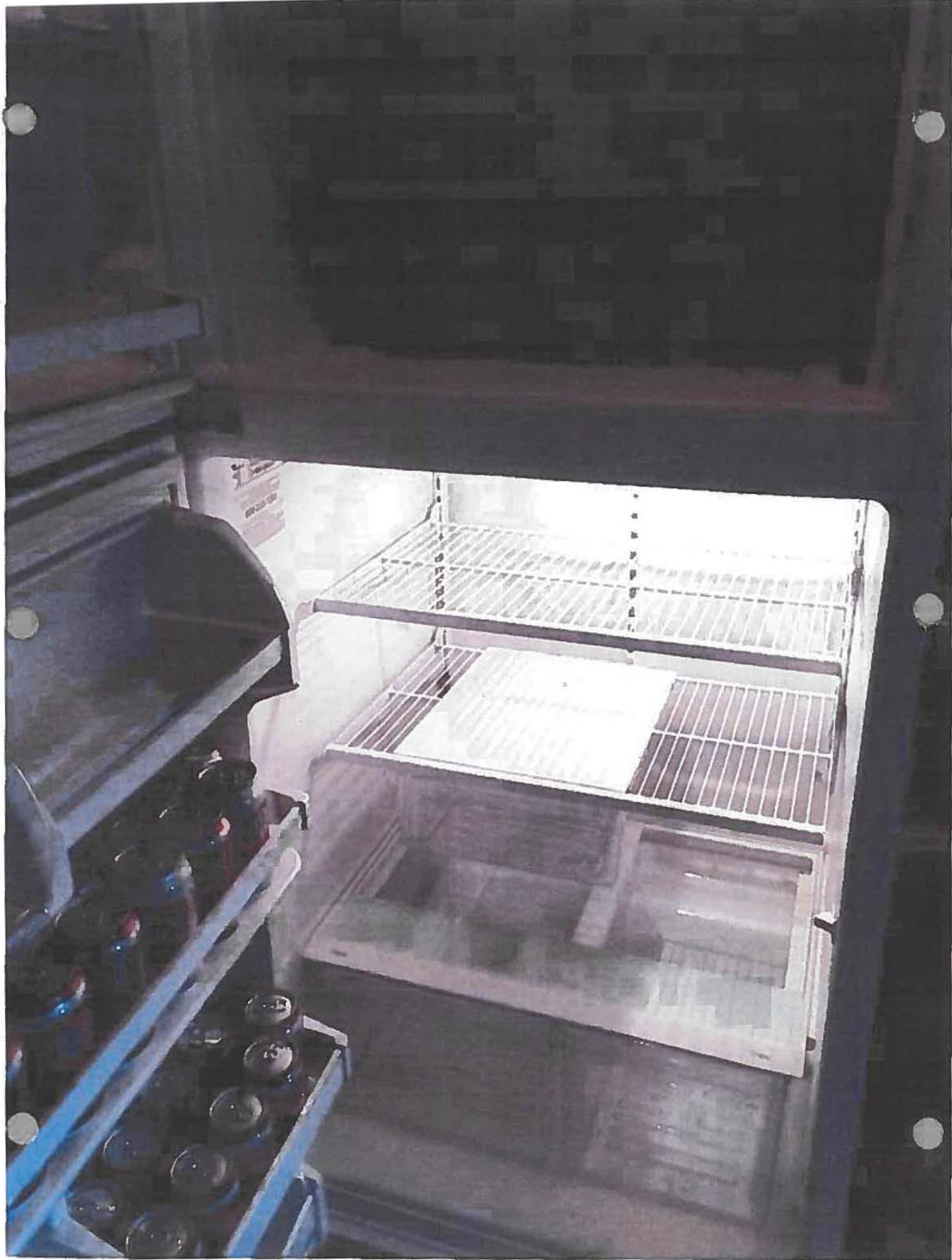
SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JULY 2012

Best Wishes For All Seasons
MaslowskiWildlife.com







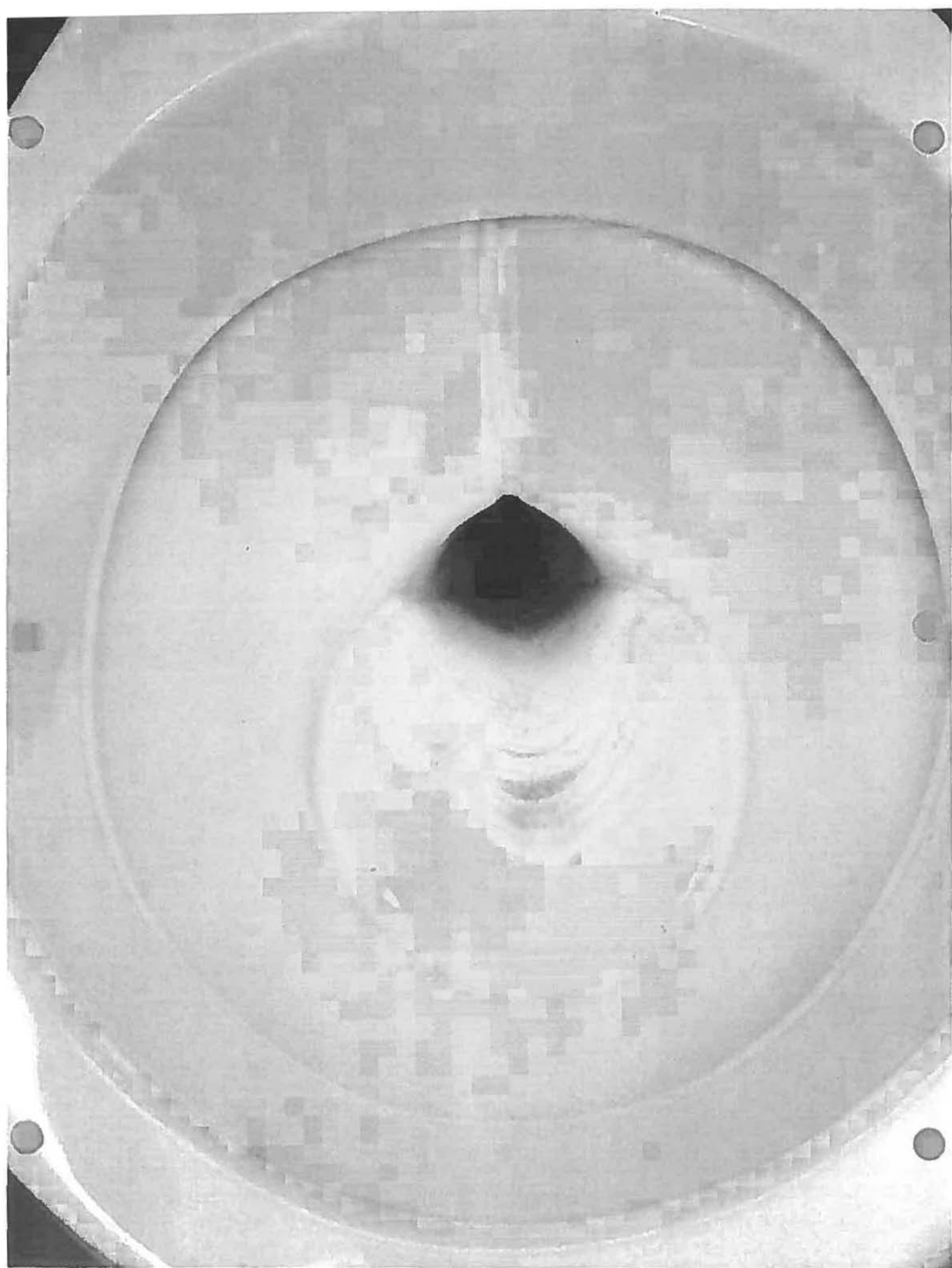


EXHIBIT J

SIRKINLAW APC

388 Market Street • Suite 1300 • San Francisco • California • 94111 • 415.738.8545(v) • 707.922.8641(f)
dasirkin@earthlink.net • www.andysirkin.com

February 26, 2018

Rich Hillis, President
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94102-4689

Re: 668-678 Page Street Condo Conversion Application

Dear President Hillis and Members of the Planning Commission:

I am writing to clarify two important matters relating to the above-referenced conversion application.

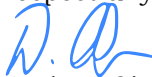
First, I would like to explain our use of the term “vacant” to describe the status of Unit 670 in the “Six Year Occupancy History” section of the SFDPW Conversion Application Form. At the time we prepared the application, our office was informed by all of the other owners of the property that neither Ms. Iris Canada, nor anyone else, had resided in Unit 670 since November 2012. This information was corroborated by Iris Merriouns, Ms. Canada’s grandniece, who swore under oath that Ms. Canada moved into Ms. Merriouns’ East Bay home in 2012.

Our office has been preparing San Francisco condominium conversion applications since 1993, and has prepared an average of 60 such applications per year for the past 20 years. Throughout this period, it has been our practice, and based on long experience, the accepted and preferred practice of SFDPW, to describe apartments in which no one was residing as “vacant” in the “Six Year Occupancy History” chart on the application. This approach is consistent with our understanding of the purpose of the chart, which is to determine who is living in the building on the application date and who has been living there during the six preceding years.

Neither SFDPW nor any other San Francisco governmental agency has ever asked us to provide information on the personal items or furnishings present in an apartment, and there is no part of the SFDPW Conversion Application Form that requests such information. Consequently, we do not ask our clients to provide information on whether personal property is present in the apartments, and we do not indicate the presence of such items in the “Six Year Occupancy History”.

Next, I would like to explain why we, and SFDPW, believed Ms. Canada to be an owner rather than a tenant. Under a deed recorded in 2005, Ms. Canada was granted an ownership interest in the property. The existence of this deed was shown on the Preliminary Title Report. Based on the Report, SFDPW requested that we provide a copy of Ms. Canada’s deed, which we did, after which SFDPW confirmed in writing that it considered her to be an owner. Specifically, Cheryl Chan of SFDPW wrote in an email dated June 11, 2014: “From the deed provided, Iris Canada is an owner of record. Please have Iris sign and notarize the required documents for all owners in the ECP application.”

Respectfully,



D. Andrew Sirkin
SirkinLaw APC

DAS/as

EXHIBIT K

FILED
San Francisco County Superior Court

MAR 22 2016

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

Andrew M. Zacks (SBN 147794)
Mark B. Chernev (SBN 264946)
ZACKS & FREEDMAN, P.C.
235 Montgomery Street, Suite 400
San Francisco, CA 94104
Tel: (415) 956-8100
Fax: (415) 288-9755

Attorneys for Plaintiffs,
Peter M. Owens, et al.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION**

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWENS, an individual,

Case No.: CGC-14-543437

JUDGMENT

Plaintiffs,

vs.

IRIS CANADA an individual, OLD
REPUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive,

Defendants

This action came on regularly for trial on March 21, 2016 in Department 502 of the Superior Court of California, County of San Francisco, the Honorable James A. Robertson, II Judge Presiding; Plaintiffs appeared by their counsel Mark B. Chernev of Zacks & Freedman, P.C., Defendant Iris Canada failed to appear.

The Court, having read and considered the papers and evidence submitted, including the Notice of Time and Place of Trial served on Defendant, Iris Canada, finds as follows:

1. Defendant Iris Canada was properly served pursuant to Code of Civil Procedure §594 with a Notice of Time and Place of Trial on February 2, 2016, noticing Defendant Iris Canada of the trial date of March 21, 2016;

2. Defendant Iris Canada failed to appear at the March 21, 2016 trial;

3. The March 21, 2016 trial was continued to March 22, 2016 to permit Plaintiffs the opportunity to prepare a prove up of their cause of action based on Defendant Iris Canada's failure to appear;

4. Defendant Iris Canada was properly noticed of the continued trial date and for prove up hearing to be heard on March 22, 2016;

5. The Court conducted a prove up hearing on March 22, 2016, at which time the Court took judicial notice of the documents presented by Plaintiffs and heard testimony from Plaintiff, Peter M. Owens and non-party witness Geoff Pierce;

6. Defendant Iris Canada failed to appear at the properly noticed March 22, 2016 continued trial date and for prove up hearing.

After having heard and reviewed evidence presented by Plaintiffs, and after having made a determination that the evidence presented by Plaintiffs appears to be just, and the

failure of Defendant Iris Canada to appear at the properly noticed time and date for trial, judgment shall be entered in favor of Plaintiffs, and against Defendant Iris Canada. Therefor, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT: judgment in this action shall be in favor of Plaintiffs Peter M. Owens, Carolyn A. Radisch, and Stephen L. Owens, and against Defendant Iris Canada for:

1. Immediate possession of the premises of 670 Page Street, San Francisco, California against any and all occupants, and a writ of possession against Iris Canada and any and all occupants, known or unknown, shall issue;
2. The Deed of Trust DOC-2005-I054456-00 is foreclosed and 670 Page Street, San Francisco, California shall revert back to Plaintiffs, and that Defendant Iris Canada is barred and foreclosed from all rights, claims, interests, or equity of redemption in the subject property when time for redemption has elapsed;
3. Defendant Iris Canada's Life Estate DOC-2005-I054455-00 is terminated and any and all property interests currently held by Defendant Iris Canada in 670 Page Street, San Francisco, California are terminated and shall revert back to Plaintiffs;
4. Defendant Iris Canada, her agents, and/or anyone acting on her behalf shall cease and desist causing or permitting waste to occur at 670 Page Street, San Francisco, California;
5. The Promissory Note, dated October 6, 2005 and executed by Defendant Iris Canada has become immediately due and payable and judgment shall be entered against Defendant Iris Canada for the sum of \$171,600.00 in favor of Plaintiffs, the exact amount prayed for in Plaintiffs' Complaint.

Dated: March 22, 2016

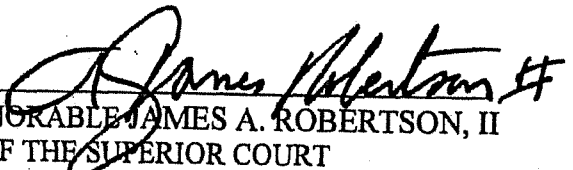

THE HONORABLE JAMES A. ROBERTSON, II
JUDGE OF THE SUPERIOR COURT

EXHIBIT L

SELLER'S COPY

The undersigned Grant(s) declares(s) that the
DOCUMENTARY TRANSFER TAX
IS \$1,250.00 COUNTY \$ _____ CITY _____
_____ computed on the consideration or value of property conveyed; or
_____ computed on the consideration value less liens or encumbrances remaining
at time of sale; or
_____ other: _____

GRANT OF LIFE ESTATE

APN: Lot 015, Block 0843
Property Address: 668-678 Page Street
San Francisco, CA

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

PETER M. OWENS and CAROLYN A. RADISCH, husband and wife, as community property with right of survivorship, as to an undivided 2/18th interest, and STEPHEN L. OWENS, a married man, as his sole and separate property, as to an undivided 1/18th interest, as Tenants in Common
hereby GRANT A LIFE ESTATE to IRIS CANADA

as to the Grantors' specific interest in the real property in the City of San Francisco, County of San Francisco, State of California described as

See Legal Description attached and made a part hereto marked Exhibit "A",

pursuant to the following terms:

For the term of Iris Canada's natural life, for as long as she permanently resides, as the sole and only occupant, in the property commonly known as 670 Page Street, San Francisco, California,

Excepting, therefrom however, Iris Canada's right to rent, lease or sublet the 670 Page Street property and/or Iris Canada's right to have any other occupants living with Iris Canada at the 670 Page Street property, and the right of Iris Canada to assign, transfer, pledge or encumber her interest in the property so as to secure any financial arrangement other than to Grantors herein,

Further reserving to said Grantors the right to revoke this Grant of Life Estate should Iris Canada fail to remit payments pursuant to the Promissory Note of even date hereof, the right of Grantors to revoke this Grant of Life Estate should Iris Canada violate the terms of the Deed of Trust of even date hereof, and the right of Grantors alone to refinance the property of which this Grant of Life Estate is a part. Further reserving to said grantors any and all obligations to pay property taxes for the duration of the life estate.

In case of such revocation being made, it shall be made and can only be made in writing, duly acknowledged and recorded.

Dated:

STATE OF ~~CALIFORNIA~~ New Hampshire
COUNTY OF ~~SAN FRANCISCO~~ Grafton
On 01/10/05 before me Carrie A. Hamel
personally appeared Peter
m. owens and Carolyn A. Radisch
personally known to me or proved to me on this basis of
satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged
to me that he/she/they executed the same in his/her/their
authorized capacity(ies) and that by his/her/their signature(s)
on the instrument the person(s), or the entity upon behalf of
which the person(s) acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL

Signature

Carrie A. Hamel
CARRIE A. HAMEL, Notary Public
My Commission Expires February 5, 2008

Peter M. Owens
Peter M. Owens

Carolyn A. Radisch
Carolyn A. Radisch

Stephen L. Owens
Stephen L. Owens

STATE OF CONNECTICUT:

: ss: West Hartford June 15, 2005

COUNTY OF HARTFORD :

Personally appeared Stephen L. Owens, signer of
the foregoing, who acknowledged the same to be his
free act and deed before me

Kathleen C. Lauria
Kathleen C. Lauria
Notary Public

My Commission expires: 2-28-07

EXHIBIT A

LEGAL DESCRIPTION

Property Information

668-670-672-674-676-678 Page Street
San Francisco, CA 94117

Legal Description - Assessor's Block 0843, Lot 015

Commencing at a point on the northerly line of Page Street; distant thereon 100 feet easterly from the easterly line of Steiner Street; running thence easterly along said northerly line of Page Street 37 feet 10 ½ inches; thence at a right angle northerly 15 feet 9 inches; thence northwesterly along a line which if extended would intersect the easterly line of Steiner Street at a point thereon 76 feet 5 inches northerly from the northerly line of Page street 4 ½ inches, more or less, to a point distant 137 feet 6 inches easterly from the easterly line of Steiner Street; measured along a line drawn at right angles thereto; thence northerly and parallel with Steiner Street 91 feet 9 inches; thence at a right angle westerly 37 feet 6 inches; thence at a right angle southerly 107 feet 6 inches to the northerly line of Page Street and the point of commencement.

Being a portion of Westerly Addition Block No 370.

EXHIBIT M

Subject: FW: Iris Canada
Date: Thursday, January 27, 2005 12:12 PM
From: Denise Leadbetter <denise@zackslaw.com>
To: <owensradisch@earthlink.net>

Hi Peter, Carolyn, Stephen:

Hope you all are well.

Please let me know your thoughts regarding the \$650. I know that you have always said that Iris is expecting to pay to you the equivalent of the rent she always paid, but Steve is being a diligent attorney. I will clarify with Steve that the Item B of the Promissory Note should satisfy his concern re: balloon payments - i.e. there is none. Further, I will let him know that the \$250,000 is just an arbitrary amount and that you shall continue to pay the property taxes on this portion of the property.

Please advise if my responses here are acceptable.

Thanks

Denise

-----Original Message-----

From: Steve Collier [mailto:Steve@thclinic.org]
Sent: Wednesday, January 26, 2005 2:44 PM
To: az@zackslaw.com; denise@zackslaw.com
Subject: Iris Canada

Dear Andrew and Denise:

I have reviewed the life estate documents and discussed them with my client. The \$15,000 down payment is not a problem. She has saved the rent and can pay it.

Regarding the note, I was wondering if your client would agree to a smaller monthly payment. My client had been paying \$625 in rent, and her income is \$1181 per month (social security). Would your clients accept \$650 per month?

Also, my client has no assets, other than burial insurance. So her estate would not be able to pay any balloon payment. I assume your clients understood this. So as far as the size of the note, I suppose it does not make much difference, but I am wondering how you came up with the amount of \$250,000.

Lastly, the owners would have to continue to pay property taxes on the unit. I do not know if the life estate is assessed and taxed, but my client could not afford to pay property taxes on it.

Steve Collier

3.1.A "Unit"
plumb, heating mech sys doors, windows
(min, repair, improv)
M & I cost
indiv. vs common.
14 4.4.C
14 7.1.A "Individual maintenance"
Page 1 of 1

EXHIBIT N

cam@ticlawyers.com

From: cam tic <camticbackup@gmail.com>
Sent: Tuesday, January 23, 2018 9:26 AM
To: Cam Perridge
Subject: Fwd: 8255; AB 0843, Lot 015 at 668-678 Page Street

----- Forwarded message -----

From: Chan, Cheryl <Cheryl.Chan@sfdpw.org>
Date: Wed, Jun 11, 2014 at 9:42 AM
Subject: RE: 8255; AB 0843, Lot 015 at 668-678 Page Street
To: Cam Perridge <cam@ticlawyers.com>

Hi Cam,

From the deed provided, Iris Canada is an owner of record. Please have Iris sign and notarize the required documents for all owners in the ECP application.

Thank you,



CHERYL CHAN

CITY & COUNTY OF S.F. – DEPARTMENT OF PUBLIC WORKS

Bureau of Street-Use and Mapping

1155 Market Street, 3rd Floor, San Francisco, CA 94103

Main: [415-554-5827](tel:415-554-5827) | Direct: [415-554-4885](tel:415-554-4885) | Fax: [415-554-5324](tel:415-554-5324)

E-Mail: cheryl.chan@sfdpw.org

From: Cam Perridge [mailto:cam@ticlawyers.com]
Sent: Tuesday, June 10, 2014 3:56 PM

To: Chan, Cheryl
Subject: RE: 8255; AB 0843, Lot 015 at 668-678 Page Street

Hi Cheryl,

Please find attached the deed for Iris.

Cam

Cam Perridge

SirkinLaw APC

388 Market Street, Suite 1300

San Francisco, CA 94111

v. 415.839-6407

f. 707. 922-8641

cam@ticlawyers.com

www.andysirkin.com

This email and any attachments may contain confidential and privileged material solely for the use of the intended recipient. If you are not the intended recipient you may not open, copy, download or read the contents of this message. If you have received this email in error please return it immediately to the sender.

From: Chan, Cheryl [<mailto:Cheryl.Chan@sfdpw.org>]
Sent: Friday, May 30, 2014 4:20 PM
To: Sirkin & Associates
Subject: PID: 8255; AB 0843, Lot 015 at 668-678 Page Street

Good afternoon Cam,

We are currently reviewing the above application and found Mr. Iris Canada listed as an owner on the Preliminary Title Report (attached), but we do not see his name listed in any of the deeds.

Please provide a deed showing Mr. Iris Canada's ownership.

Thank you,



CHERYL CHAN



CITY & COUNTY OF S.F. – DEPARTMENT OF PUBLIC WORKS

Bureau of Street-Use and Mapping

1155 Market Street, 3rd Floor, San Francisco, CA 94103

Main: 415-554-5827 | Direct: 415-554-4885 | Fax: 415-554-5324

E-Mail: cheryl.chan@sfdpw.org

Project Type:	6 Condo Conversion		
Check Rec'd	\$9806	ECP Check Rec'd	\$0
Surveyor / Engineer of Record:	Vara Land Surveying		

Address #	Street Name	Block #	Lot #
668-678	PAGE ST	0843	015

Current Phase: Project Terminated Current Status: Project Terminated

Date Rec'd	Date to DCP	Date Rec'd from DCP	Date DPW Tent. Approval	Date Mylars Rec'd	Date Recorded
5/28/2014 4:04:59 PM					

Activity	Date Stamp	Comments
Application Logged	5/28/2014	Received application fees \$9556.00 (check #0167) and \$250.00 (check #0165). cc
Application Assigned	5/28/2014	Robert Hanley
Comment	5/28/2014	PID 8255
Returned to Applicant	5/30/2014	Emailed attorney for ownership clarification. cc
Received from Applicant	6/10/2014	Received Grant of Life Estate deed. cc
Returned to Applicant	6/11/2014	Emailed attorney for forms required for all owners. cc
Comment	1/29/2016	Spoke to attorney and applicants will submit at a later time. Returned entire application to attorney. cc
Project Terminated	1/29/2016	Terminated due to inactivity - BRS/cc; Terminated Box# 37

EXHIBIT O

ANDREW M. ZACKS (SBN 147794)
MARK B. CHERNEV (SBN 264946)
ZACKS, FREEDMAN & PATTERSON, P.C.
235 Montgomery Street, Suite 400
San Francisco, CA 94104
Tel: (415) 956-8100
Fax: (415) 288-9755

Attorneys for Plaintiffs,
Peter M. Owens
Carolyn A. Radisch
Stephen L. Owens

SUPERIOR COURT – STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO – UNLIMITED CIVIL JURISDICTION

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWENS, an individual,

Plaintiffs,

vs.

IRIS CANADA an individual, OLD
REPUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive,

Defendants.

Case No.: CGC-14-543437

**DECLARATION OF MARK B.
CHERNEV IN SUPPORT OF
REASONABLE ATTORNEY'S FEES TO
BE PAID PURSUANT TO COURT
ORDER**

Date: June 8, 2016
Time: 10:00 a.m.
Dept.: 502
Judge: Hon. James A. Robertson, II

1. I, Mark B. Chernev, am an attorney licensed to practice before the courts of the state of California, am admitted to practice in this Court, and am an associate at Zacks, Freedman & Patterson, P.C., attorneys of record for Plaintiffs. I have personal knowledge of the following facts discussed below and would testify truthfully thereto if called to do so.

2. On December 30, 2014 I caused the Complaint in this action to be filed. The First attempt of personal service on Defendant Iris Canada ("Defendant") was January 3, 2015. Because Plaintiffs were virtually certain that Defendant was living with her niece, Iris Merriouns ("Merriouns"), in Oakland, and had been doing so for approximately two years, I

1 caused service to be attempted at both the subject premises, 670 Page Street, San Francisco
2 ("Premises") as well as Merriouns address in Oakland. Collectively, I am aware of attempted
3 service of at least fourteen separate times, namely January 3, 2015, January 5, 2015, January 8,
4 2015, January 12, 2015, January 13, 2015, January 14, 2015, January 15, 2015, January 16,
5 2015, January 17, 2015, January 18, 2015, January 22, 2015, January 23, 2015, and January
6 24, 2015. It was not until Saturday, January 31, 2015 at 8:18 p.m. when it was learned from a
7 neighbor familiar with Defendant and Merriouns, that Defendant and Merriouns had suddenly
8 appeared at the Premises that evening to change the locks. My office immediately made
9 arrangements for a process server to appear and finally effectuate personal service on
10 Defendant at 9:40 p.m. on January 31, 2015. True and correct copies of that Proof of Service
11 and Declaration of Due Diligence is attached as Exhibit A.

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14 3. Up to around this time, Steven Collier of the Tenderloin Housing Clinic was
15 representing Defendant. On or about the beginning of February 2015, Tom Drohan an
16 attorney with Legal Assistance To The Elderly became involved, and was believed to serve as
17 either a direct or indirect replacement of Steven Collier. After approximately one weeks worth
18 of phone calls and email exchanges, on or about February 7, 2015, Tom Drohan represented
19 that he would not be representing Defendant, and that Steven Collier would be representing her
20 in this lawsuit. Steve Collier, however, never entered his appearance once the formal litigation
21 began.
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23
24 4. On March 2, 2015, I was served with "DEFENDANT IRIS CANADA
25 ANSWER TO PLAINTIFFS COMPLAINT". That Answer was submitted by "Iris Merriouns,
26 Power of Attorney for Iris Canada" and listed an address as "Iris Merriouns, Pro Se, Power of
27 Attorney for Iris Canada, 1 Frank H. Ogawa Plaza, Oakland, Ca. 94612, 510-435-7044". I
28

1 soon confirmed that this address is that of the Oakland City Hall where Merriouns is employed.
2 Additionally, I confirmed that the phone number listed is that of Merriouns, and it had been
3 used numerous times by Plaintiffs to contact Merriouns in the past. A true and correct copy of
4 that first Answer is attached as Exhibit B.

5 5. On March 13, 2015, I was served with Defendant's second Answer. This
6 second Answer was identical in substance to the first Answer, except that Merriouns' power of
7 attorney and address for contact was substituted with Defendant herself, with an address of
8 "670 Page Street #1, San Francisco, Ca". In other words, Merriouns was removed. The
9 contact telephone number, namely that of Merriouns, remained the same. A true and correct
10 copy of that second Answer is attached as Exhibit C. Up to this point, based on the two
11 Answers I had been served with, I had been informed by Defendant of her contact phone
12 number, which was Merriouns cell, of Merriouns allegedly being Defendant's power of
13 attorney with a provided work address at Oakland City Hall, and the address at the Premises
14 itself. Additionally, I had already been aware of Merriouns home address in Oakland.
15 Pursuant to the second Answer, however, the address of the Premises was the designated
16 address for Defendant by Defendant.

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20 6. On March 11, 2015 I first caused Defendant to be served with a Notice of
21 Deposition for the purpose of investigating the allegations in the Complaint, namely the terms
22 and obligations of the Life Estate, the Deed of Trust, the Promissory Note, and the
23 circumstances surrounding how the Premises had fallen into disrepair, and where Defendant
24 had been permanently residing for the past two-plus years while the Premises was allegedly
25 vacant, among other things. That Deposition Notice provided for a deposition date of April 1,
26 2015 at 1:00 p.m., and also requested the production of documents. The Notice was served by
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1 first class mail to Defendant at the Premises, as provided for in her second Answer, as well as
2 my additionally providing two courtesy copies to the Oakland City Hall employment address
3 previously provided. I heard nothing back from Defendant or Merriouns until approximately
4 5:00 p.m. on March 31, 2015, the evening before the deposition was to take place.
5 Specifically, I received a telephone call from Merriouns informing me that she was "at the
6 hospital" and that Defendant had been admitted, but refused to provide any additional
7 information besides the representation that Defendant would not be appearing at the deposition
8 to take place the following day. I requested from Merriouns that she please call me the next
9 morning to discuss confirming the admission, rescheduling the deposition, and for general
10 discussions regarding good faith arrangements to depose Defendant in the future. Merriouns
11 agreed to contact me the following day. Although I did not dispute at that time what
12 Merriouns was saying, I felt it necessary to do my due diligence. The following day, April 1,
13 2015, I emailed Merriouns, at the email address I had for her, confirming our conversation and
14 again requested she provide me with proof of Defendant's admission and unavailability.
15 Merriouns failed to call me as she had promised. Additionally, after Defendant failed to
16 appear at the noticed deposition on April 1, 2015, and my email having not been responded to,
17 I followed up with another email to Merriouns later that afternoon. Because Defendant did not
18 appear at her noticed deposition, it was re-noticed on April 1, 2015 for April 16, 2015. At
19 approximately 5:00 p.m. on April 1, 2015, Merriouns called me. She indicated that Defendant
20 had been "discharged" the previous evening from UCSF. I again requested that she provide
21 some written documentation of Defendant's discharge, representing that I would not need any
22 doctors note or official medical records, and that a mere discharge paper with Defendant's
23 name and a date would suffice. Merriouns indicated that rather than provide that proof, she
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1 would instead get an actual note from Defendant's primary care physician. I emphasized to her
2 that was not necessary, and that I would accept her representations as long as she merely
3 provide something as simple as a discharge note. Merriouns indicated she would promptly do
4 both. Two days later, On April 3, 2015 Merriouns informed me Defendant would not be
5 appearing at a deposition and no medical records would be provided. Merriouns and I
6 continued to meet and confer regarding the issue of Defendant's deposition via email for
7 fifteen days before Merriouns provided any documentation of Defendant's hospital admission
8 and discharge. Coincidentally, it was not until 8:28 p.m. on April 15, 2015, the evening before
9 the re-noticed, and now second, deposition was to take place (April 16, 2015 at 1:00 p.m.) that
10 Merriouns provided any documentation evidencing hospital papers, and that only related to the
11 first deposition date of April 1, 2015. No documentation regarding cancellation of the re-
12 noticed deposition, or Defendant's inability to attend, was provided, short of the Merriouns
13 email. True and correct copies of the Notice of Deposition, the Re-Notice of Deposition, and
14 referenced email thread is attached collectively as Exhibit D.

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18 7. On April 16, 2015 at 1:00, Defendant failed to appear at her re-noticed
19 deposition and no documents were provided. When Defendant failed to appear, I caused
20 Defendant to be served with a Third Notice of Deposition scheduled for May 5, 2015 at 1:00
21 p.m. Additionally, with that Third Notice, I included an anticipatory meet and confer letter to
22 Defendant addressing any potential issues or inconveniences that may exist regarding her
23 appearance. Specifically, I offered to relocate the venue for the deposition to the Premises,
24 Merriouns's residence, any residence she may prefer, or any place in the Bay Area. Moreover,
25 I offered to provide transportation for Defendant in the event it was needed. Defendant never
26 responded. On May 4, 2015 at 5:43 p.m., the evening before the third deposition was to take
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1 place, I received a fax from Merriouns from the Oakland City Counsel indicating that
2 Defendant would not be appearing. On May 5, 2015 at 1:00, consistent with Merriouns' fax,
3 Defendant failed to appear. A true and correct copy of that accommodations letter, Third
4 Notice of Deposition, and fax from Merriouns is attached as Exhibit E. During this time
5 period, on or about April 24, 2015, another attorney, Robert DeVries contacted me on behalf of
6 Defendant. I discussed briefly with him the pending litigation, my clients' wishes, the efforts
7 thus far, and a possible resolution. Robert DeVries never entered his appearance.
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9 8. Ancillary to the efforts undertaken to depose Defendant, Plaintiffs had also
10 noticed a site inspection of the Premises for obvious reasons, among which would provide
11 Defendant an opportunity to simply show the Premises in its current state, similar in the way
12 she recently invited the media into her home for display. The site inspection efforts are
13 discussed in more detail below, however of chronological significance is that the first site
14 inspection notice was served on April 2, 2015 and noticed for May 7, 2015. At the time that
15 inspection was noticed, Defendant remained pro se. On May 6, 2015, the day after
16 Defendant's failure to appear at her third noticed deposition, and the day before the site
17 inspection was noticed to take place, I received a telephone message from Defendant's new
18 attorney (and the fourth my having contact with), Mary Catherine Wiederhold indicating that
19 neither Defendant, nor herself, would be available for the site inspection noticed for the
20 following day. No alternative date or time was presented, nor was any explanation regarding
21 the unavailability of either Defendant or her counsel represented. As a result of that
22 cancellation, I served Defendant, by way of her counsel, with a Fourth Notice of Deposition,
23 noticing the deposition for May 21, 2015 as a result of Defendant's failure to appear at the
24 third deposition. I also noticed the second site inspection of the Premises for June 11, 2015 at
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1 11:00 a.m. The following day, May 7, 2015, I received a letter from Defendants' attorney
2 regarding the site inspection, the deposition, and concerns that somehow Defendant was being
3 doubly exposed to discovery as a result of the status of the procedurally necessary defendant,
4 Old Republic Title Company, and that Plaintiffs were attempting to get "two bites at the apple"
5 by having a deposition and a site inspection, as if somehow that was precluded, let alone
6 improper. Additionally, Defense counsel asked specifically if there was a non-participation
7 agreement with Old Republic Title Company regarding discovery, which there in fact was, as
8 they had previously represented to me they had no interest in conducting any discovery. I soon
9 made arrangements with Old Republic Title Company to have them provide written
10 confirmation of that non-participation agreement, which was promptly provided to Defense
11 counsel merely four days later on May 11, 2015. Moreover, as a courtesy, I offered to conduct
12 the deposition at the already noticed time and place of the site inspection, namely the Premises.
13 That way, Defendant would not be inconvenienced at all, she could simply permit the site
14 inspection to occur, and I could depose her, all while at the Premises. This again, being an
15 opportunity for Defendant to show the Premises in a manner consistent with her recent media
16 representations that she has been living there all along. That offer was rejected. A true and
17 correct copy of Defense counsel Mary Catherine Wiederhold's letter, the non-participation
18 agreement from Old Republic Title Company, the Fourth Notice of Deposition and Second
19 Demand for Inspection and associated Proof of Service, as well as my meet and confer letter is
20 attached as Exhibit F.

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25 9. After having represented Defendant for approximately six days, on May 11,
26 2015, the same day both the Old Republic Title Company and I sent letters to Mary Catherine
27 Wiederhold, she served me with a Notice of Motion to Be Relieved as Counsel, which,
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1 suspiciously was calendared out thirty-one days and set for hearing the *exact* same date, and
2 within an hour-and-a-half of, the now second noticed site inspection date for the Premises,
3 June 11, 2015. Additionally, Defense counsel's last official act before withdrawing was to
4 cancel, now for the fourth time, Defendant's properly noticed deposition set to take place on
5 May 21, 2015. This cancellation ignored my offer to conduct the deposition at the Premises at
6 the same time as the site inspection, and offered no documentation in support of the medical
7 issues represented, nor any alternative date, time, or place to reschedule. It was simply
8 canceled. A true and correct copy of that Motion to Be Relieved, my meet and confer efforts,
9 and that final deposition cancellation letter is attached collectively as Exhibit G.

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11 10. On May 29, 2015, I learned attorney David Larson may be entering his
12 appearance and representing Defendant in this action. I contacted Mr. Larson via email on
13 June 1, 2015 regarding his possible representation, as Mary Catherine Wiederhiold was still
14 counsel of record, and I did not want to communicate with the wrong attorney, or with
15 Defendant directly if she was represented. I had a very brief communication with David
16 Larson regarding this matter. David Larson never entered his appearance. A true and correct
17 of our communications is attached as Exhibit H.

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20 11. On June 11, 2015, I attended the hearing on Mary Catherine Wiederhold's
21 motion to be relieved as counsel. The purpose of my appearing was not to oppose the motion
22 to be relieved, but simply to confirm the site inspection was still going forward. I never
23 received confirmation one-way or the other. Defendant did not appear. That motion to be
24 relieved was granted, and permitted Ms. Weiderhold to withdraw as counsel effective June 11,
25 2015, as a result of irreconcilable differences having led to a breakdown of the attorney-client
26 relationship. On June 11, 2015 at 11:00 a.m., and after appearing at that 9:30 a.m. law and
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1 motion calendar, I appeared at the Premises for the site inspection, which still remained
2 properly noticed to take place. Once there, after having both rang the doorbell numerous times
3 and knocked numerous times, after approximately 15 minutes I left when there was no
4 response and Defendant did not appear or answer the door.

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6 12. As a result of Mary Catherine Wiederhold's earlier cancellation of the fourth
7 deposition, and a failure to provide any alternative date, time, or scenario where such a
8 deposition could occur on an agreed upon date, time and place, on June 15, 2015, I caused
9 Defendant to be served with a now Fifth Notice of Deposition and Request for Production of
10 Documents, scheduling that deposition for June 30, 2015 at 1:00 p.m. to take place at my
11 office. Additionally, as a result of the failure of Defendant to appear at, or permit, the June 11,
12 2015 site inspection, I simultaneously served Defendant with a Third Demand for Inspection of
13 Real Property, noticing the Third Site Inspection for July 21, 2015. This served as not only the
14 opportunity, but legal obligation, to permit the Premises to be viewed by me, and
15 constructively by Plaintiffs, arguably in a manner consistent with her recent representations to
16 the media that she has been living at the Premises all along. First, on July 21, 2015, the date of
17 the site inspection, at approximately 11:00 a.m., I personally appeared at the Premises for the
18 purpose of conducting the noticed site inspection. Much like before, there was no response to
19 my numerous attempts to announce my presence, including ringing the doorbell and knocking
20 numerous times. After approximately 15 minutes, after having received no response to ringing
21 the doorbell or my seeing the Defendant, or any related party, I left. Second, when June 30,
22 2015 arrived, the date set for Defendant's fifth noticed deposition, Defendant failed to appear.
23 After that failure to appear at the deposition, on July 13, 2015 I sent Defendant yet another
24 letter inquiring as to her nonappearance at her fifth properly noticed deposition, as well as my
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1 offer to relocate the deposition, provide transportation if necessary. I received no response. A
2 true and correct copy of that letter and the Fifth Notice of Deposition and Third Notice of Site
3 Inspection is collectively attached as Exhibit I.

4 13. As a result of Defendant's failure to appear at now five properly noticed
5 depositions, and the absolute failure of any reasonable meeting and conferring on an agreeable
6 time or place for the deposition to take place, or my even receiving a response to my meet and
7 confer efforts and invitations to accommodate Defendant in any manner necessary, including
8 my July 13, 2015 letter as well as the offer to conduct the deposition simultaneously with the
9 site inspection at the very location Defendant now alleges she has lived all along, on July 17,
10 2015 I filed a Motion to Compel Compliance with Deposition Notice and Request for
11 Sanctions. On September 15, 2015 that Motion to Compel Compliance with Deposition Notice
12 and Request for Sanctions was heard and granted. The Court ordered Defendant to appear for
13 her deposition on or before October 5, 2015 and to produce the documents responsive to the
14 Fifth Notice of Deposition, a copy of which was attached to the Order. Additionally,
15 Defendant was required to contact me specifically in advance of that deposition deadline to
16 meet and confer on the specific date and time for the deposition. The Court also awarded
17 Plaintiffs sanctions in the amount of \$2,795.00 to be paid by Defendant on or before October 5,
18 2015. That Order and associated Notice of Entry of Order was served on Defendant September
19 23, 2015. Additionally, based on the history of the action, and Defendant's pattern of not
20 meeting and conferring with me at all on any scheduling issues, I also re-noticed the deposition
21 for a date specific, namely September 30, 2015 at 1:00 p.m., a time consistent with the Order,
22 so Defendant would have the opportunity to contact me pursuant to the Order and have the
23 deposition held that day or different day which we could discuss, in the event she did contact
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1 me at all. She didn't. At no time on September 30, 2015 did Defendant appear at my office
2 for her deposition, nor were any documents provided. Additionally, at no point has Defendant
3 ever contacted me pursuant to that Order to schedule her deposition, before October 5, 2015 or
4 otherwise, nor has Defendant ever contacted me regarding providing the demanded documents
5 or the sanctions, also contained within that Order to occur on or prior to October 5, 2015. A
6 true and correct copy of that Order, Notice of Entry of Order, Sixth Notice of Deposition, and
7 proof of service is attached as Exhibit J.
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9 14. Additionally, as a result of Defendant's failure to appear at or permit the third
10 noticed Site Inspection on July 21, 2015 (referenced above), Plaintiff filed a Motion to Compel
11 Compliance with Plaintiffs' Third Demand for Inspection of Real Property, and Request for
12 Sanctions on July 22, 2015. That Motion was heard and granted on September 4, 2015.
13 Pursuant to that Order, the site inspection was ordered to take place on September 9, 2015 at
14 11:00 a.m., and Defendant was further ordered to pay sanctions in the amount of \$1,600.
15 Defendant was provided Notice of Entry of this Order on September 4, 2015 by personal
16 messenger. This would have served as the now third opportunity for Defendant to present the
17 Premises in a manner consistent with her recent representations to the media regarding her
18 occupancy, let alone pursuant to her obligation under the rules of discovery and now Court
19 Order. On September 9, 2015 at 11:00 a.m. I personally appeared at the Premises for the
20 purpose of conducting the Court Ordered site inspection. I knocked and rang the bell for
21 approximately fifteen minutes, and after having received no response, I left.
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25 Besides Defendant's failure to appear at the five noticed depositions resulting in a
26 Court Order, Defendant's failure to permit the properly noticed and Ordered site inspection of
27 the Premises three separate times, Defendant had also failed to comply with or respond to any
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1 of Plaintiffs' written discovery demands, namely form interrogatories and requests for
2 production of documents. The documents requested would have been of particular importance
3 as they would have supported or disputed Defendant's permanently residing at the Premises,
4 the condition and repair of the Premises, among other things. Plaintiff first served their
5 Request for Production of Documents and Form Interrogatories on April 26, 2015 and April
6 23, 2015 respectively. Defendant failed to provide any responses to either request. Well after
7 the deadlines for Defendant's responses were due, in advance of my filing a Motion to Compel
8 the Form Interrogatories and Request for Production, I sent Defendant a letter on June 15, 2015
9 informing her that the deadline had passed, and that I had not heard from her. Additionally, I
10 offered her an opportunity to have additional time to prepare and provide responses, and if she
11 needed additional time, and we could select an agreeable date, and further provided Defendant
12 an additional week to let me know by June 23, 2015 if she would need additional time.
13 Defendant failed to respond to that invitation or letter. Defendant failed to provide any
14 responses to any requested discovery. As a result of Defendant's failure to respond to the
15 Form Interrogatories, the Request for Production, and my offer of additional time, I caused to
16 be filed and served a Motion to Compel Responses to Plaintiffs' Request for Production of
17 Documents to Iris Canada – Set One, and Request for Sanctions and a Motion to Compel
18 Answers to Interrogatories and Request for Sanctions, both on June 24, 2015. On August 20,
19 2015, both Motions were granted, which required Defendant to answer the Form
20 Interrogatories and produce the Requested Documents, and pay sanctions totaling \$1,770, or
21 \$885 for each motion, within ten days of notice of entry of Order. Notice of Entry of each
22 Order was provided to Defendant on August 20, 2015. Defendant failed to comply with any of
23 those obligations, either by responding to the interrogatories, providing the documents, paying
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1 the sanctions, or even requesting time to do any of those things. True and correct copies of my
2 meet and confer letter, the Site Inspection Order and the two Orders regarding Form
3 Interrogatories and Production of Documents are collectively attached as Exhibit K.

4 15. Simultaneous with my efforts to depose Defendant and to conduct an inspection
5 of the Premises, and to receive written discovery and documents, I had attempted to subpoena
6 Merriouns for a deposition, as she had been Plaintiffs' primary contact for Defendant and was
7 also serving as her primary caregiver, as well as her specifically representing herself as being
8 power of attorney for Defendant. If there was anyone who was familiar with Defendant's
9 living arrangements besides Defendant herself, it would be Merriouns. Consistent with that, I
10 prepared a deposition subpoena for Merriouns on March 11, 2015, noticing the deposition to
11 take place on April 2, 2015. Because Merriouns is not a party to the action, it was necessary to
12 personally serve her. The first place I had my process server attempt service was at the address
13 she had previously provided for service, namely 1 Frank H. Ogawa Plaza and Oakland City
14 Hall. This, again, was specifically the address provided by Merriouns earlier when I was
15 served with Defendant's first Answer. After the first attempt to serve Merriouns, the process
16 server was told that he must go to the city attorney's office on the 6th Floor of Oakland City
17 Hall. That attempt was March 12, 2015. Upon going to the 6th Floor, the server was then
18 informed that that department would only accept record subpoenas, and nobody was available
19 to accept service. It was curious that the location designated for service by Merriouns was a
20 place where service could not be effectuated. This would end up being the first in a wardrobe
21 of problems presented by Merriouns in her seemingly strategic election to designate Oakland
22 City Hall as the address for service of process. Subsequent to that failed attempt, unsuccessful
23 attempts to serve Merriouns were made at her residence on March 13, 2015 at 8:10 a.m.,
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1 March 14, 2015 at 3:25 p.m., March 15, 2015 at 10:20 a.m., March 16, 2015 at 5:10 p.m. and
2 again at 8:10 p.m. (a black Mercedes being present at the residence, Merriouns drove a black
3 Mercedes at the time), March 17, 2015 at 8:25 a.m., again with the Mercedes present, March
4 18, 2015 at 7:00 a.m. and again at 6:35 p.m. with the Mercedes present the second time, March
5 19, 2015 at 7:30 p.m., March 21, 2015 at 12:15 p.m., March 22, 2015 at 8:40 a.m., March 24,
6 2015 at 7:10 p.m., and March 25, 2015 at 6:50 p.m. After these *sixteen* failed attempts to serve
7 Merriouns, that first deposition subpoena expired and Plaintiffs were forced to re-notice the
8 deposition and attempt service on Merriouns anew. It was not until May 8, 2015 that the
9 process server was able to effectuate service on Merriouns, and that was only after a neighbor,
10 in the same manner as with service of the original Complaint itself, notified Plaintiffs that
11 Merriouns had appeared at the Premises with Defendant. Merriouns was served a subpoena to
12 appear at her deposition set to take place on May 26, 2015 at my office at 10:00 a.m. Two
13 days after Merriouns was served with her deposition subpoena, on May 11, 2016, I sent
14 Merriouns an anticipatory meet-and-confer letter, which also included the necessary witness
15 fees and mileage reimbursement. Included in that letter was an invitation for Merriouns to
16 contact me in the event the deposition date presented a conflict, as well as an offer to
17 reschedule the deposition to an agreed upon date in the event she had a conflict. This offer to
18 reschedule was sent two weeks in advance of the actual deposition, and was sent to Merriouns
19 at both her home and work address. Merriouns never responded to that letter or invitation.
20 Additionally, when the date of the deposition arrived, on May 26, 2015, Merriouns failed to
21 appear, failed to produce the necessary documents, and failed to contact me entirely. True and
22 correct copies of those subpoenas, declarations of due diligence, the meet and confer letter, and
23 the associated proof of service are collectively attached as Exhibit L.
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1 16. As a result of Merriouns' failure to appear at her deposition, and failure to
2 contact me about rescheduling, I sent her a meet and confer letter on May 26, 2016 again
3 offering an opportunity to schedule the deposition to an agreeable time and also to inquire
4 regarding the circumstances of her nonappearance in advance of my filing a motion to compel.
5 Merriouns failed to respond to that invitation and inquiry. As a result of Merriouns' failure to
6 appear at her deposition and failure to meet and confer or engage me on the issue at all, I
7 prepared and filed a Motion to Compel Merriouns' compliance with her deposition subpoena.
8 That Motion was filed on June 5, 2015 and Merriouns was served the following day by a
9 neighbor when Merriouns appeared at the Premises with Defendant. Merriouns failed to
10 respond to that Motion and failed to appear at the hearing. On July 1, 2015, Plaintiffs were
11 awarded and Order Granting Motion to Compel Compliance with Deposition Subpoena and
12 Request for Sanctions against Merriouns. That Order required Merriouns to appear at
13 deposition and pay Plaintiffs sanctions in the amount of \$1,972.50 which represented the fees
14 and costs associated with Merriouns failure to appear at her deposition, failure to meet and
15 confer on the matter, and the Motion to Compel itself. Additionally, after Plaintiffs were
16 awarded the Motion to Compel, I sent Merriouns yet another letter informing her of the status
17 of the matter and the Order, as well as again inviting her to contact me about resolving the
18 litigation. Of significance is that up to this point, both Merriouns and Defendant had failed to
19 present any evidence supporting Defendant having resided at the Premises and had additionally
20 resisted all of Plaintiffs' efforts to investigate same. On July 17, 2015, at her home in Oakland,
21 Merriouns was served with the now second deposition subpoena as well as another copy of the
22 Order, noticing her deposition for August 5, 2015. True and correct copies of the Order
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1 Granting Compliance, meet and confer letters, second subpoena and associated proofs of
2 service is collectively attached as Exhibit M.

3 17. On July 22, 2015, two weeks in advance of the Merriouns deposition date, and
4 after she had been served, I sent Merriouns a letter, with a courtesy copy of the deposition
5 notice and Order, inviting her again that if the noticed deposition date presented a conflict, to
6 please contact me about rescheduling to an agreed upon date. This letter also informed
7 Merriouns that she had previously been provided the applicable witness fees for her
8 appearance. On August 4, 2015, at 5:01 p.m., less than 24 hours before the deposition was
9 set to begin, and thirteen days after I had invited Merriouns to reschedule the deposition, I
10 received a fax from her stating she would not be appearing, requested "agreed dates and
11 times", but contained no contact information to contact her regarding her request for an agreed
12 upon date, nor any suggested dates or times which would be agreeable. The only contact
13 number was a fax number in the margin indicating where the letter was sent from, namely the
14 "Oakland City Counsel". In response to Merriouns' cancelation, on August 5, 2015, I sent her
15 a meet and confer letter attempting to reschedule the deposition to an agreed upon date.
16 Because I was firmly convinced I would not be receiving any correspondence back regarding
17 my offer, I additionally scheduled another date to have the deposition in the event I did not
18 hear from her. That date was August 12, 2015 at 1:00. This letter was emailed to Merriouns at
19 two different email addresses I have used to correspond with her in the past, as well as being
20 sent U.S. Mail to both her home and work address. Meriouns did not respond to that letter and
21 did not acknowledge receipt of either email. On August 12, 2015, the actual date of the now
22 rescheduled deposition, at 1:12 a.m., I received a facsimile from Merriouns, again indicating
23 she would not be appearing. Much like the earlier cancellation facsimile, this letter seemingly
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1 offered to reschedule, however provided no contact number or alternative date or time to
2 conduct the deposition. It is of significance that Merriouns has had my email address and work
3 phone number for months, yet she instead chose to send a fax at 1:12 a.m. One cannot simply
4 “reply” to a fax under those circumstances. After having not been contacted by Merriouns
5 after her August 12, 2015 cancellation and alleged willingness to reschedule the deposition, the
6 following week I caused a Motion to Compel Compliance with Deposition Subpoena, Request
7 for Sanctions, and Finding of Contempt to be filed as a result of Merriouns now having
8 canceled two properly noticed depositions in violation of Court order, and her failure to meet
9 and confer on the matter. On September 17, 2015, that Motion was granted after hearing and
10 appearance by Merriouns. At that hearing, and from the bench, the Hon. Ronald E. Quidachay
11 admonished and Ordered Merriouns to appear no less than five separate times for her
12 deposition, and she was again ordered to pay sanctions this time in the amount of \$2,255
13 within 30 days, and was Ordered to show cause why she should not be held in contempt of
14 Court for her failure to comply with the Court’s earlier Order. I would not be exaggerating or
15 embellishing by representing that the Court was pleased with Merriouns actions to say the
16 least. Hearing on that OSC was set for November 13, 2015 and Merriouns was ordered to
17 respond no later than November 6, 2015. A true and correct copy of the referenced letters and
18 associated emails and transmission receipts, and September 17, 2015 Order Granting Motion to
19 Compel Compliance with Deposition Subpoena, Request for Sanctions, and Finding of
20 Contempt is collectively attached as Exhibit N.

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25 18. On October 7, 2015 Merriouns actually appeared at her deposition at my office.
26 That deposition proceeded as best it could under the obvious circumstances and Merriouns
27 reluctance to be there. Additionally, the deposition could not be completed because, besides
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1 the time constraints, Merriouns failed to bring her eyeglasses, and was unable to review any
2 documents which were presented to her, such as the Life Estate, the Deed of Trust, the
3 Promissory Note or the Bill of Sale. Moreover, it was particularly telling that Merriouns had
4 “forgotten” her eyeglasses, eyeglasses of which she testified she needs because she is both
5 nearsighted and farsighted. After that deposition session ended without having been
6 concluded, attorney John Cooke began representing Merriouns in defense to my efforts to
7 conclude the deposition. After numerous meet and confer efforts, proposed and entered orders,
8 and engaging Mr. Cooke and the general theme and tone of resistance, I realized it was going
9 to be substantially more effort than it was realistically worth, and with the January 25 trial date
10 approaching, the decision was made to simply abandon the effort without having concluded the
11 deposition. It simply was a mitigation of costs and effort.

14 19. Prior to Merriouns’ Deposition, on October 5, 2015, I prepared and caused a
15 very thorough Plaintiffs Amended Motion for Summary Judgment or in the Alternative
16 Summary Adjudication (“MSJ”) to be filed and served. The hearing on that MSJ was noticed
17 for December 22, 2015, which was approximately one month before the first scheduled trial
18 date of January 25, 2016. This MSJ was supported by declarations both from Plaintiff Peter
19 M. Owens and two separate independent witnesses, as well as meal delivery cancellation
20 documents provided by Meals on Wheels, in addition to other evidence supporting all of
21 Plaintiff’s causes of action. Of note was that Plaintiff had served Meals on Wheels with a
22 document demand and they had provided documents in response to that discovery request
23 evidencing that meal delivery at the Premises had been canceled on October 2, 2012 until
24 further notice, and had not been renewed. Copies of those meal cancelation records are
25 included in Plaintiffs’ MSJ.
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20. Independent of the already filed and noticed MSJ, as a result of Defendant's failure to comply with any discovery, to meet and confer on any of outstanding discovery, and her failure to comply with the now four separate Court Orders, on October 19, 2016, Plaintiffs filed and served four separate Motions to Compel Compliance with Court Order each seeking additional evidentiary sanctions. Plaintiffs' Motion to Compel Compliance With Court Order for Compliance with Deposition Notice, Request for Monetary Sanctions, and for Issues Sanctions, Plaintiffs' Motion to Compel Compliance with Court Order for Site Inspection, Request for Monetary Sanctions, and for Issue Sanctions, Plaintiffs' Motion to Compel Compliance with Court Order for Compliance with Request for Production of Documents, Request for Monetary Sanctions, and for Issue Sanctions, and Plaintiffs' Motion to Compel Compliance with Court Order for Responses to Form Interrogatories, Request for Monetary Sanctions, and for Issue Sanctions, with each Motion noticed for hearing November 10, 2015. At 7:27 a.m., on November 10, 2015, the date which the Motions were to be heard, attorney John Cooke emailed the Court and myself noticing that he was entering his appearance for the limited scope of representing Defendant on these Motions, and that Defendant was, albeit untimely, contesting the tentative rulings. John Cooke now served as the sixth attorney whom I had contact with regarding representation of Defendant, either directly or indirectly, in this matter. John Cooke appeared at the November 10, 2015 hearing along with myself. One of the main issues entertained by Pro Tem Judge Steven B. Stein at that hearing was providing Defendant one final opportunity to convince the Court that there would be complete compliance with the outstanding discovery with specific commitments made on behalf of Defendant. The Court further emphasized the prejudice Plaintiffs have suffered as trial was set to begin in approximately two months, and over seven months have passed since Defendant

1 was first served with discovery requests, of which none has been complied with. Additionally,
2 rather than finding in favor of Plaintiffs from the bench and a manner consistent with the
3 tentative rulings, Pro Tem Judge Steven B. Stein took the matter under submission and
4 provided Defense counsel with two separate correspondences inviting Defendant to represent a
5 plan for compliance prior making a finding on Plaintiffs' Motions as well as Defendant
6 providing discovery to Plaintiffs in a manner which can alleviate the clear prejudice Plaintiffs
7 have suffered. In other words, the Court gave Defendant an opportunity before issuing its
8 order. Thirteen days later, and after Defendant failed present any plan regarding compliance,
9 besides an offer to request PG&E bills and to pay \$200 in sanctions, Plaintiffs were granted
10 each of their Motions by Pro Tem Judge Steven B. Stein on November 23, 2015. True and
11 correct copies of those Court communications and Notices of Entry of Order granting Plaintiffs
12 the issue sanctions sought are collectively attached as Exhibit O.

15 21. In advance of the MSJ hearing, Defendant filed an Opposition to Plaintiff's
16 MSJ, first on December 15, 2015 and again on December 17, 2015, which were untimely, but
17 not objected to by Plaintiffs. Plaintiff filed Reply papers in response to Defendant's
18 Opposition papers. On December 22, 2015, the MSJ hearing date, the Court, on its own
19 motion, continued the matter to be heard December 31, 2015.

21 22. On December 28, 2015, three days before that MSJ hearing was to be heard,
22 Defendant filed for Chapter 7 Bankruptcy. (Exhibit P-1) That resulted in the MSJ being taken
23 off calendar because of an automatic stay. Of significance is that within her Chapter 7
24 Bankruptcy Petition, Defendant listed no assets, no creditors, and no debts, besides her
25 obligation to pay Plaintiffs on the Promissory Note on the underlying Life Estate and Deed of
26 Trust. Additionally, because the Life Estate was not an alienable asset (it applying to
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1 Defendant only and not being transferrable or marketable), it had no value to the Bankruptcy
2 Estate, and even if it had, Plaintiffs were the only scheduled creditors who would receive
3 distributions, to the extent there even were any funds to be distributed considering Defendant
4 had no significant assets scheduled. Moreover, and most importantly, Plaintiffs seeking
5 recovery of the Life Estate was based on behavioral violations, and not related in any way to
6 the Promissory Note or the financial obligation of Defendant to make payments to Plaintiffs.
7 Likewise, there was no relief which the Bankruptcy Court could provide for Defendant, short
8 the stay itself strategically taking the MSJ off calendar. Equally as telling, was that in her
9 petition, Defendant had also listed as her address for all Bankruptcy notices, to be "One Frank
10 H. Ogawa Plaza, 2nd Floor, Attn: Iris Merriouns, Oakland, CA 94612". (Exhibit P-1). As a
11 result of Defendant filing for Chapter 7 Bankruptcy, and Plaintiffs being entitled to relief from
12 the stay, Plaintiffs filed a Motion for Relief From Stay and a simultaneous application to have
13 that Motion heard on shortened time, the three main factors being 1) there was no relief which
14 the Bankruptcy Court provide Defendant; 2) the underlying matter was a State Court property
15 dispute and the Bankruptcy Court should abstain, and; 3) that trial in the action was scheduled
16 for January 25, 2016, merely weeks away. That Motion and request to shorten time was filed
17 on December 31, 2015. (Exhibit P-2) Shortened time was granted on January 2, 2016 and the
18 Bankruptcy Court set the hearing for January 7, 2016. (Exhibit P-3) In response to Plaintiffs'
19 seven-page Motion for Relief From Stay, Defendant filed a twenty-five page Opposition.
20 (Exhibit P-4) After filing her twenty-five page opposition, Defendant further filed a Motion to
21 Strike the Order Granting Ex Parte relief shortening time, alleging, among other things,
22 improper service at the Oakland City Hall address and improper communications between the
23 Bankruptcy Court and Plaintiff's counsel. (Exhibit P-5) Additionally, Defendant filed a
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1 Request for Continuance based on her medical condition. Defendant filed all of the above
2 referenced pleadings while she remained pro se. At that January 7, 2016 hearing, U.S.
3 Bankruptcy Judge Hannah L. Blumenstiel denied Defendant's Motion to Strike, further
4 admonishing her for the accusations of improper communications (Exhibit P-7) and granted
5 Defendant's Request for Continuance Re: Medical Impairment for one-week to January 14,
6 2016, but for purposes mainly of her securing counsel. (Exhibit P-8) Not soon after,
7 Defendant amended her bankruptcy petition to remove Merriouns and the Oakland City Hall as
8 her address for service. (Exhibit P-9).

10 Defendant's new attorney, Mitchell Abdallah of Sacramento, CA, entered his
11 appearance in the Bankruptcy matter on January 13, 2015, the day before the Motion for Relief
12 From Stay was to be heard. Mitchell Abdallah's first procedural act as counsel for Defendant
13 was to file a Motion to Convert her Chapter 7 Bankruptcy to a Chapter 13 Bankruptcy the
14 morning of the Relief from Stay hearing. (Exhibit P-10) At the hearing, on January 14, 2016,
15 Plaintiffs were granted Relief From Stay. One can only speculate as to why Defendant sought
16 to convert her Chapter 7 to Chapter 13, however, after Plaintiffs received relief from stay that
17 day, Defendant immediately withdrew her Motion to Convert to Chapter 13 before the relief
18 from stay Order was even docketed. (Exhibit P-11) Plaintiff was granted relief from stay
19 pursuant to Order on January 15, 2016. (Exhibit P-12). Defendant later requested to dismiss
20 her own Bankruptcy on March 2, 2016, without her having received any of the relief sought
21 under the protections of bankruptcy. (Exhibit P-13) Defendant's bankruptcy was dismissed
22 pursuant to her request on April 3, 2016. (Exhibit P-14). True and correct copies of all of the
23 Exhibits referenced as P-1 through P-14 are attached to this Declaration in Exhibit P.
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1 23. Judge Blumenstiel's Bankruptcy Order granting Plaintiffs relief from stay had a
2 fourteen-day hold which further delayed the proceedings in this Court, including the January
3 25th trial date. The stay was effectively lifted January 29, 2016, however trial in the underlying
4 action remained on calendar for January 25, 2016. Likewise, not only did Defendant's
5 Bankruptcy cause the MSJ hearing to be taken off calendar, it would delay the trial date as
6 well. I appeared at the January 25, 2016 trial call. At that call, Judge Stewart rescheduled the
7 trial to February 1, 2016 to account for the expiration of the stay. Neither Defendant nor
8 anyone on Defendant's behalf appeared at that January 25, 2016 trial call. Thereafter, I caused
9 Defendant to be noticed of the time and place of trial, as ordered to do so by the Court. The
10 following week, I appeared at the rescheduled February 1, 2016 trial calendar call. True and
11 correct copies of that Notice of Time and Place of Trial is attached as Exhibit Q.

12 24. On February 1, 2016, when the matter was called for trial, Merriouns appeared
13 and served Plaintiffs, via me, with Defendant's Notice of Notice of Removal and a Notice of
14 Stay and left the courtroom. This Notice of Notice of Removal was signed by Defendant and
15 dated January 29, 2016, and seemingly attempted to remove the matter to Federal Court on
16 grounds of diversity, which also resulted in, what was now, a second attempt to stall and stay
17 the proceedings and prevent any findings on the merits. (Exhibit R-1) Defendant did not
18 appear. Because the Court was unable to verify the Removal, and Merriouns did not remain to
19 provide or volunteer any additional information or explanation, the trial was continued to
20 February 2, 2016 so Court staff could verify the proceedings and status. I appeared at the call
21 the following day after having learned that Defendant had filed a Notice of Removal with the
22 United States District Court for the Northern District of California on January 29, 2016.
23 (Exhibit R-2) At that February 2, 2016 trial call, and after the Court confirmed Removal, the
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1 trial was rescheduled a third time to March 21, 2016. Later that day, I caused Defendant to be
2 served with Notice of that new trial date as ordered to do so by the Court. (Exhibit R-3) I soon
3 learned that the Notice of Notice of Removal and Notice of Stay were not the only pleadings
4 that Defendant had filed in the State Court action pending in this Court. First, on February 1,
5 2016, besides the Notice of Notice of Removal I had been served, Defendant also filed an
6 additional Objection to Plaintiffs' MSJ, which had still yet to be heard. Additionally, on
7 February 4, 2016, after having filed her Removal, Defendant filed an amended Notice of Stay
8 and an additional Notice of Removal. Moreover, despite the fact that neither Plaintiffs or I had
9 ever utilized electronic service to serve Defendant of any pleadings in the year-plus this
10 litigation had been pending, Defendant filed a Notice of Non-Authorization and Non-Consent
11 to Electronic Service. (Exhibit R-4) This further limited the options, albeit never employed,
12 Plaintiffs had to serve Defendant with any pleadings. A true and correct copy of that Notice of
13 Non-Authorization and Non-Consent to Electronic Service is attached as Exhibit S. A true and
14 correct copy of the above referenced Notice, Notice of Notice, Notice of Stay, Notice of Trial,
15 and Notice of Non-Authorization and Non-Consent to Electronic Service are attached as
16 Exhibits R-1 through R-4.

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20 25. Plaintiffs now had to address the stay associated with Defendant's removal to
21 Federal Court served on myself, in the courtroom, on the February 1, 2016 trial date. On
22 February 10, 2016, on behalf of Plaintiffs, I filed in the United States District Court for the
23 Northern District of California, a Motion to Remand in Federal Court as a result of
24 Defendant's improper and untimely removal. Federal Rules required that Motion to be heard
25 on 35 days notice, and it was therefore noticed for March 17, 2016. Additionally, with that
26 Motion to Remand, an application for an order shortening time was also requested. Prior to the
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1 Motion to Remand being heard, and the application to shorten time being ruled upon, and just
2 two days after my having filed the Motion to Remand, on February 12, 2016, United States
3 District Court Judge Edward Chen remanded Defendant's removal back to this Court for lack
4 of jurisdiction. This was done well in advance of the actual hearing noticed for March 17,
5 2016 and the application to shorten time. Because the removal was so clearly improper, the
6 Federal Court remanded the matter without even conducting a hearing. As a result, the March
7 21, 2016 trial date could go forward, unless, of course Defendant took any addition action to
8 prevent that from happening. A true and correct copy of that first Remand Order is attached as
9 Exhibit S.
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12 26. While the matter remained in Federal Court, and in between the two-day period
13 after Plaintiffs had filed their Motion to Remand and before it had actually been Remanded,
14 Defendant filed two significant pleadings. First, on February 11, 2016, Defendant filed a
15 Notice of Non-Consent to Electronic Service similar to the one filed in State Court on February
16 3, 2016, even sharing the same signature date and language of that State Court Non-Consent to
17 Electronic Filing of February 3, 2016 (Exhibit T-1). Second, Defendant filed a sixteen count
18 cross-complaint against Plaintiffs in Federal Court in the improperly removed matter. Within
19 the fifty-three pages of that Cross-Complaint, Defendant alleged causes of action for 1)
20 Financial Elder Abuse; 2) Elder Abuse; 3) Unfair Competition – California Business and
21 Professional Code §§17200 et seq.; 4) Negligent Infliction of Emotional Distress; 5)
22 Intentional Infliction of Emotional Distress; 6) Age Discrimination in Violation of ECOA, 15
23 U.S.C. §1691(a)(1); 7) Fraud; 8) Fraudulent Inducement; 9) Cancellation; 10) Fraudulent
24 Concealment; 11) Damages Based on Fraud; 12) Fraudulent Misrepresentation; 13) Breach of
25 Fiduciary Duty; 14) Civil Conspiracy; 15) Civil RICO; and 16) Violation of 42 U.S.C. §3601,
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1 et seq. (Exhibit T-2). That cross-complaint has been seemingly abandoned by Defendant.

2 True and correct copies of Defendant's Notice of Non-Consent to Electronic Service (Federal
3 Court) and Cross-Complaint are attached as Exhibit T-1 and Exhibit T-2.

4 27. On February 12, 2016, the same day that United States District Court Judge
5 Edward Chen remanded Defendant's removal as being improper, Defendant filed a Notice of
6 Appeal in the United States District Court. Additionally, on February 16, 2016, Defendant
7 filed another Notice of Stay of Proceedings "Notice of Appeal to the Ninth Circuit RE:
8 Divestiture Rule is controlling" and on February 18, 2016 filed a Notice of Notice of Appeal to
9 the Ninth Circuit Court of Appeals RE: Divestiture Rule Controlling. None of Defendant's
10 pleadings regarding this appeal set forth the basis of any stay being in effect, or that Defendant
11 had been granted any stay of proceedings subsequent to the Remand issued by United States
12 District Court Judge Edward Chen. On February 22, 2016 the United States Court of Appeals
13 for the Ninth Circuit issued an Order to Show Cause why the judgment appealed should not be
14 summarily affirmed because the questions on which the decision in the appeal depends may be
15 so unsubstantial as to not justify further proceedings. That ruling remains outstanding. True
16 and correct copies of that Order to Show Cause, Defendant's Notice of Appeal, Notice of Stay,
17 and Notice of Notice of Appeal are attached collectively as Exhibit U.

18 28. With the matter having now been properly Remanded, and with no stay being in
19 effect or applicable, I appeared at the March 21, 2016 trial call, at which time Judge Stewart
20 assigned this matter to Judge Robertson for trial. Defendant did not appear nor did anyone
21 appear on Defendant's behalf, including Merriouns. As a result of Defendant's failure to
22 appear, Judge Robertson scheduled the matter to continue to the following day to permit
23 Plaintiffs to prepare and arrange for a prove up hearing. Additionally, Plaintiffs' MSJ was also
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1 ordered to be noticed to be heard on that March 22, 2016 date as well, as all of the necessary
2 papers and opposition were, and for some time had, before the Court. I caused Defendant to be
3 served Notices of both that prove up hearing and the hearing on the MSJ. In advance of that
4 hearing I prepared a Request for Judicial Notice in Support, and arranged for the appearances
5 of Plaintiff and independent witnesses to present testimony to the Court. I also prepared
6 proposed Orders for both of the hearing set to take place incorporating much of the factual and
7 procedural history of the litigation as required. True and correct copies of those Notices are
8 collectively as Exhibit V.
9

10 29. The following day, March 22, 2016, when both the MSJ hearing and prove up
11 hearing were to take place, Merriouns showed up again without Defendant. Similar to before,
12 rather than address the merits of the pending issues and hearings set to be heard in mere
13 minutes, Merriouns served this Court's staff and myself with another Notice of Notice of
14 Removal. This was an identical attempt to remove the matter to Federal Court, now for the
15 second time, and under the same improper authority that resulted in the earlier remand, namely
16 diversity jurisdiction, which Defendant was seemingly in the process of appealing. Merriouns
17 again refused to speak to the Court, the Court's staff, or myself, as she had done before at the
18 February 2, 2016 trial call of Judge Stewart. She simply served the Notice of Notice Removal
19 and left. It was clear that on behalf of Defendant, Merriouns had simply re-filed Notice of
20 Notice Removal in an attempt to prevent the matter from moving forward with the MSJ
21 hearing and the prove up hearing, both of which she seemingly knew about, as evidenced by
22 not only her appearance, but the filing of the Notice of Notice of Removal itself that day.
23 After a thorough investigation of the Notice of Notice of Removal, including real-time
24 assistance from both of this this Court's research clerks, this Court struck this now second
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1 Notice of Notice of Removal as being defective, one of the main reasons being that the Notice
2 of Notice of Removal was identical to the first and earlier Notice of Notice of Removal, even
3 sharing Defendant's same signature date of January 29, 2016. A true and correct copy of that
4 Order Striking Notice of Notice of Removal, the second Notice of Notice Removal, and the
5 Notice of Removal, and is collectively attached as Exhibit W.

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7 30. After this Court had stricken the now second and improper removal to Federal
8 Court, this Court held the hearing on Plaintiff's MSJ and after reviewing all of the pleadings
9 provided in support of the Motion, as well as all of the pleadings filed by Defendant in
10 opposition and the late filed objections, this Court granted Plaintiffs' MSJ. A true and correct
11 copy of that Amended Motion for Summary Judgment or in the Alternative Summary
12 Adjudication, dated March 22, 2016 is attached as Exhibit X.

13
14 31. After this Court had stricken the now second and improper removal to Federal
15 Court, this Court conducted a full prove-up hearing based on Defendant's failure to appear at
16 the properly noticed trial, and the failure of Defendant, Merriouns, or anyone else for that
17 matter, to address the Court on the issue. This Court reviewed all the documents provided in
18 Plaintiffs' request for judicial notice supporting same, heard testimony from Plaintiff Peter M.
19 Owens, independent witness Geoff Pierce, and reviewed additional evidence on the matter.
20 After that full hearing, this Court issued Judgment in the Action. A true and correct copy of
21 that Judgment is attached as Exhibit Y.

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24 32. Subsequent to receiving Judgment, the since relieved attorney Michael Spalding
25 entered his appearance and no-longer associated attorney Steven MacDonald became involved
26 in the matter. Since Mr. Spalding's involvement, I have made two separate appearances in
27 Department 501 at the ex parte stay of eviction calendar. Additionally, Mr. Spalding filed a
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1 Request from Relief from Forfeiture, which my office drafted the opposition to as well as
2 providing additional pleadings to the Court in response to the request for additional
3 information. Defendant's request for relief from forfeiture resulted in another two separate
4 court appearances that both Andrew Zacks and I appeared at, which were also attended by Mr.
5 Spalding and Mr. MacDonald. The requested relief and additional information has given rise
6 to this Motion for Reasonable Fees. As mentioned, Mr. Spalding has since substituted out as
7 counsel and I have confirmed that Mr. MacDonald is no longer involved on behalf of
8 Defendant.
9

10 33. Since this litigation began, Plaintiffs have been awarded a total of \$6,165 in
11 sanctions against Defendant for the above-described discovery violations and have further been
12 awarded sanctions totaling \$4,227.50 against Merriouns for her violations as well. The total
13 amount of sanctions Plaintiffs have been awarded in this action is \$10,392.50 and includes no
14 less than ten separate orders.
15

16 34. As a result of these actions, and others, the fees incurred by Plaintiff for our
17 services in this action was is \$170,348.63.00 up to and including the date of entry of judgment,
18 Defendant's relief from forfeiture, and this Motion. Plaintiffs were, however, granted a
19 courtesy discount on the legal fees, in the total amount of \$15,535.63, establishing the total
20 amount of attorney's fees realized by Plaintiffs to be \$154,813.00. True and correct invoices
21 reflecting
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23 35. I have reviewed the bills provided to Plaintiffs for our services in this matter,
24 and believe that they are reasonable given the result we achieved as well as the tremendous
25 amount work that was necessary based on the actions on behalf of Defendant. I have also
26 reviewed the bills and determined that the services provided were necessarily incurred in this
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1 case, and were incurred for the purpose of obtaining a judgment to enforce Plaintiff's right to
2 recover possession of the Premises. Attached to this declaration as Exhibit Z is a transaction
3 listing of business records kept in the normal course of my business showing the date each
4 billable item on this matter occurred, the initials of the individual who preformed that item, a
5 description of the service provided, the amount of time spent on that particular task, the total
6 cost of the particular service, and that individuals hourly rate (by dividing the total cost of the
7 particular service by the amount of time spent on the task). The entries shown on the
8 transaction listing are the same as those that appeared on the invoices our office sent to
9 Plaintiffs for the services we performed in this matter. These billings also reflect the amount
10 of costs associated with litigating this action. The costs, which include, and are not limited to
11 filing fees and an exhaustive amount of service and fees, totals \$14,653.23. I believe the costs
12 were necessarily incurred in this case, and are reasonable in light of the result obtained in this
13 matter.
14

15
16 36. I have been practicing law in California since December 2009 and currently
17 practice as a real estate and litigation attorney. I have also practiced law on a full time basis as
18 a trial attorney since November 1999 in other states. My rate for the majority of this matter
19 was \$275 per hour, and it having increased to \$300 per hour as of March 1, 2016. True and
20 correct copies of the invoices sent to Plaintiffs in this action, evidencing the work performed
21 by myself and other staff in my office are included in the business record billings attached to
22 this Declaration as Exhibit Z.
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25 I declare under the penalty of perjury that the foregoing is true and correct, and that this
26 declaration was executed on the below referenced date at San Francisco, California.

27 Dated: May 12, 2016

28 _____
By: Mark B. Chernev

ZACKS & FREEDMAN, P.C.
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

ZACKS, FREEDMAN & PATTERSON, P.C.
Attorneys for Plaintiffs

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EXHIBIT P

THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

Case Number: CGC14543437
Title: PETER M OWENS VS. IRIS CANADA ET AL
Cause of Action: QUIET TITLE - REAL PROPERTY
Generated: 2018-01-22 4:03 pm

Register of Actions Parties Attorneys Calendar Payments Documents

Attorneys

Show entries

Search:

Name	Bar Number	Address and Phone Number	Parties Represented
COOKE, JOHN F	154609	COOKE LAW GROUP ONE SANSOME ST STE 3500 SAN FRANCISCO, CA 94104 415-946-8850	
SPALDING, MICHAEL	291936	HOMELESS ADVOCACY PROJECT 125 HYDE STREET SAN FRANCISCO, CA 94102 415-865-9216	
WIEDERHOLD, MARY CATHERINE	219429	LAW OFFICES OF MARY CATHERINE WIEDERHOLD 1458 SUTTER STREET SAN FRANCISCO, CA 94109 415-533-0735	
ZACKS, ANDREW MAYER	147794	ZACKS, FREEDMAN & PATTERSON, P.C. 235 MONTGOMERY STREET SUITE 400 SAN FRANCISCO, CA 94104 415-956-8100	OWENS, PETER M (PLAINTIFF) OWENS, STEPHEN L. (PLAINTIFF) RADISCH, CAROLYN A. (PLAINTIFF)
ZARAGOZA, DENNIS BOYD	084217	LAW OFFICES OF DENNIS ZARAGOZA P.O. BOX 15128 SAN FRANCISCO, CA 94115	CANADA, IRIS (APPELLANT) CANADA, IRIS (DEFENDANT)

Showing 1 to 5 of 5 entries

Previous

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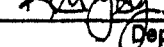
Next

EXHIBIT Q

FILED
San Francisco County Superior Court

JUN -8 2016

CLERK OF THE COURT

BY:  Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWNES, an individual,


Plaintiffs,

vs.

IRIS CANADA an individual, OLD
REUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive

Defendant.

Case No. CGC-14-543437


**TENTATIVE DECISION
DETERMINING AMOUNT OF
REASONABLE ATTORNEYS FEES
AND COSTS**

The Court orders Defendants pay Plaintiffs' reasonable attorney's fees and costs in the amount of \$169,466.23 within 30 days. The Court found in its order dated April 27, 2016, as a condition to Defendant receiving equitable relief from forfeiture, that Plaintiffs are entitled to compensation pursuant to §3275.

The Court granted the *Defendant's Motion for Relief* pursuant to §3275:

Whenever, by the terms of an obligation, a party thereto incurs a forfeiture, or a loss in the nature of a forfeiture, by reason of his failure to comply with its provisions, he may be relieved therefrom, upon making full compensation to the other party, except in case of a grossly negligent, willful, or fraudulent breach of duty.

Cal.Civ.Code §3275.

The Court's order of April 27, 2016 relied on *Cassinella v. Allen* (1914) 168 Cal. 677 and *Parsons v. Smilie* (1893) 97 Cal. 647.

The Court finds that *Defendant Iris Canada's Memorandum of Points and Authorities in Opposition to Motion for Determination of Reasonable Attorney's Fees* ("Defendant's

1 *Memo*") is an improper motion for reconsideration pursuant to Cal.C.C.P. §1008 because it
2 challenges the legal basis for the order of April 27, 2016, which found that Plaintiffs were
3 entitled to full compensation for attorneys fees and costs as a condition for granting relief for
4 forfeiture.

5 Cal.C.C.P. §1008 (a): "[A]ny party affected by the order may, within 10 days after
6 service upon the party of written notice of entry of the order and based upon new or
7 different facts, circumstances, or law, make application to the same judge or court
8 that made the order, to reconsider the matter and modify, amend, or revoke the prior
9 order."

10 The Court granted Defendant's Motion for Relief pursuant to Civil Code §3275 on
11 April 27, 2016. Defendant filed *Defendant's Memo* on June 6, 2016, 40 days after the Court
12 granted Defendant's Motion for Relief. The Court finds this motion for reconsideration
13 untimely pursuant to §1008.

14 The Court also finds that the motion for reconsideration is improper due to a lack of
15 new or different facts, circumstances, or law. In Defendant's original opposition, Defendant
16 did not include authorities that they now include in their current motion. Defendant includes
17 new cases *McNeece v. Wood* and *Freedman v. The Rector*; however, these cases should have
18 been provided in the original motion and do not fit the definition of "new law" as to §1008.

19 Defendant does not dispute the total fees and costs which plaintiffs motion shows was
20 incurred. The Court orders that as a condition to Defendant receiving equitable relief from
21 forfeiture pursuant to Civil Code §3275, Defendant must pay Plaintiff's reasonable attorney's
22 fees to the amount of \$154,813.00, as well as necessary costs in the amount of \$14,653.23.
23 Defendant shall make full payment of these fees to Plaintiffs within 30 days.

24 IT IS SO ORDERED

25 *June 8, 2016*

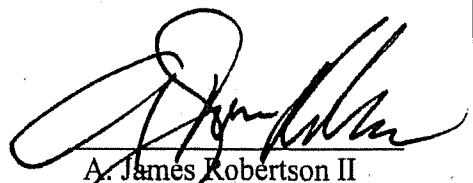
26 
27 A. James Robertson II
28 Superior Court Judge

EXHIBIT R

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

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Mark B. Chernev (SBN 264946)
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Attorneys for Plaintiffs
Peter M. Owens
Carolyn A. Radisch
Stephen L. Owens

SUPERIOR COURT - STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO - UNLIMITED CIVIL JURISDICTION

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWENS, an individual,
Plaintiffs,

vs.

IRIS CANADA an individual, OLD
REPUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive,
Defendants.

Case No.: UGC-14-543437

DECLARATION OF PETER M. OWENS
IN SUPPORT OF PLAINTIFFS'
MEMORANDUM OF POINTS AND
AUTHORITY IN SUPPORT OF SETTING
BOND AMOUNT FOR STAY PENDING
APPEAL AND OPPOSITION TO STAY
PENDING APPEAL

Date: November 1, 2016
Time: 2:00 p.m.
Dept.: 502
Judge: Hon. James A. Robertson, II

I, Peter M. Owens, declare as follows:

1. I have personal knowledge of the following facts discussed below and would testify truthfully thereto if called to do so.

2. My wife, brother and I bought the six unit building located at 668-678 Page Street, San Francisco, California in August 2002. In September 2002 we noticed the four occupied units of our intent to remove the building from rental use under the Ellis Act as of

1 January 2003. Following all proper noticing and procedures, three of the tenants moved out of
2 the building in late 2002 / early 2003. During this time I lived on the property with my brother
3 Christopher and renovated and sold five of the six units as TIC units by late 2003.

4 3. The remaining unit, first floor unit 670, had been occupied by then 86-year old
5 Iris Canada since November 1, 1965. As her neighbors, we got to know Iris Canada well and
6 decided we wanted to find a way to keep her in her longtime home. However, under Ellis Act
7 removal rules, she was not the allowed to remain as a renter. After a yearlong discussion with
8 attorneys of alternatives to renting that would not jeopardize our long-term interests, we settled
9 on the concept of a "life estate" in early 2004. We agreed to finance her purchase of a life
10 interest in her unit so long as she *"permanently resides as the sole and only occupant"*
11 (attached as Exhibit A). She would cease to be a tenant paying rent, and instead become an
12 owner of a recorded property interest repaying a zero interest \$250,000 loan in increments of
13 \$700 / month. The balance of the loan is forgiven at the time of her death. As explained in a
14 January 31, 2015 email exchange with her attorney, \$700 / month obligated us to indefinitely
15 subsidize more than 50% of her home's \$1,500 / month carrying cost for as long as she lived
16 there. It also testifies to our explicit concern for Iris Canada's welfare—to *"make sure this will*
17 *work for Iris"* and that *"we care about her well-being"* (attached as Exhibit B).

18 4. By design, the life estate benefited Iris Canada, and Iris Canada alone, so long
19 as she actually lived there, independently and on her own. Iris Canada understood this
20 condition and freely agreed to it while represented by excellent counsel. In a January 26, 2005
21 email between from her attorney, Steve Collier and our attorney Denise Leadbetter (attached as
22 Exhibit C), attorney Collier reports *"I have reviewed the life estate documents and discussed*
23 *them with my client."* His outlines his three remaining concerns: payment amount, loan terms,
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1 and property taxes. There is no expressed concern what-so-ever about the independent living
2 clause ("*permanently residing as the sole and only occupant*") or about any desire to purchase
3 the unit. To the contrary, he notes Iris Canada has no assets and a very limited, fixed income.
4 He is primarily concerned that her estate does not incur any debt or expense that she would be
5 unable to pay.
6

7 5. The independent living clause was critical to protecting us against a family
8 member or other persons unknown to us attempting to claim rights to the unit that were not
9 theirs to claim. In a second January 31, 2005 email to attorney Leadbetter, I discuss the
10 significance of the clause "*as long as she permanently resides as the sole and only occupant*"
11 (attached as Exhibit D). I go on to say "*while this protects us from someone moving in, it*
12 *doesn't really address the problem of what happens if she reaches the point where she can*
13 *longer no longer take care of herself.*" After discussing several options, I wonder to what
14 extent "*a few distant nieces in the East Bay*" would be willing or able to help if she needed it.
15
16

17 6. It is critical to understand that the media headlines about the alleged
18 displacement of a 100-year-old widow does not change the fact that there is clear agreement
19 among the parties that Iris Canada is no longer able to live independently at 670 Page Street (or
20 anywhere else for that matter)—that she is no longer able to meet the requirement to
21 "*permanently reside as the sole and only occupant.*" She has simply reached an age where
22 that is no longer possible.
23

24 7 As early as 2006, written communications show Iris Canada becoming slowly
25 less able to live on her own. In a February 15, 2006 email, social worker Sara Madigan of the
26 Community Health Resource Center reports that while Iris Canada is a pretty functional and
27 independent 90-year-old, she is experiencing some social withdrawal and minor memory
28

1 issues. She also reports some clutter and hazards in the apartment but Iris said "*her nieces*
2 *haven't had time to help her*" (attached as Exhibit E). By January 26, 2009, a letter from Larry
3 Henderson of Adult Protective Services shows that her situation has declined considerably. He
4 reports seven documented incidents of the gas being left on or smoke filling the apartment. He
5 also reports that Iris' niece (also named Iris) "*was supposed to be working on the issue but I*
6 *have not heard back from her in some time now*" (attached as Exhibit F).

8 8. By the summer of 2012, the situation had gotten so bad that apartment had
9 become infested with rodents and pests (see full description on page 8 of my October 1, 2015
10 declaration) and her grand niece, Iris Merriouns, was forced to move her out to live with her in
11 Oakland. In Iris Merriouns own sworn deposition on October 7, 2015, (answering questions
12 posed by attorney Mark Chervnev) she corroborates that her aunt is simply no longer able to
13 stay overnight by herself—especially at the Page Street apartment.

15 Q. So when you stay in 9969 Empire Road, your aunt is with you?

16 A. Typically she's with me, and if she has an appointment, she's over here and in
17 San Francisco, depending on who has the time.

17 Q. Can she stay by herself?

18 A. I don't trust her to stay by herself, especially at the Page Street address
19 (attached as Exhibit G, Page 32, Lines 15-22)

20 ~~Iris Merriouns again corroborates the inability of her aunt to live on her own under the terms of~~
21 the life estate in an April 28, 2016 radio interview on KGO's Brian Copeland Show (the full
22 audio recording at <https://audioboom.com/posts/4497961-april-28-2016-3pm>). At minute 12:53
23 of the audio file she suggests her aunt cannot live under the terms of the life estate because "*it*
24 *is not consistent with a person aging.*" At minute 35:56 of the audio file she goes on to
25 confirm that the life estate does not work for her aunt and wants the conditions changed "*they*
26 *(the life estate conditions) have to be (changed).*" While a detailed chronology of the
27 unoccupied status of 670 Page Street from July 2012 to March 2016 is contained within the
28

1 transcript, the unavoidable conclusion of Iris Merriouns' own testimony is that since 2012 her
2 aunt has not be able to abide by the condition that she "*permanently reside as the sole and only*
3 *occupant*" and therefore has been in violation of the life estate for at least four years.

4 9. As a condition to our fellow TIC owners granting permission to have a life
5 estate interest granted to Iris Canada, we agreed to take full responsibility to ensure Iris Canada
6 abided by the terms of her agreement. Their permission was needed because TIC buildings are
7 jointly titled with all owners on the same deed. Thus, in conjunction with granting the life
8 estate in June 2005, the TIC group executed the 4th Amendment to our TIC Agreement
9 (attached as Exhibit H). The amendment states that if Iris Canada violates the terms of her
10 agreement, Carolyn, Stephen and I, the unit's owners, are compelled to "*take all necessary*
11 *action to revoke Iris Canada's Life Estate and remove Iris Canada.*"
12

13
14 10. For more than two years, we have gone to extraordinary lengths and expense to
15 give Iris Canada every opportunity restore her life estate and even expand it to better suit her
16 needs. All we have asked in return is her simple cooperation with a condominium conversion
17 application that her own lawyers and a judge have assured her would have zero impact on her
18 rights. However, at the insistence of Iris Merriouns, she has consistently refused for reasons
19 unknown to us until late July 2016 when Merriouns, through her attorney, demanded the forced
20 sale of the property as a condition of her aunt's cooperation. These efforts are summarized in
21 my August 24, 2016 "Final Appeal" letter to Iris Merriouns (attached as Exhibit I).
22

23
24 11. Whatever hardship exists is entirely of her own making. She has been in
25 violation of the life estate for over four years. Whether or not she is granted a stay pending
26 appeal will not change her situation. She is unable to live on her own at Page Street now. She
27 will continue to not be able to live on her own at Page Street going forward—with or without
28

1 the stay. Nothing changes for her. There is no hardship. Iris Canada is completely free to
2 continue to not live as the sole and only occupant of 670 Page. While she may complain about
3 losing a sense of home and memory, there is absolutely nothing in our agreement that obligates
4 us to forfeit our own use and enjoyment of our property so she can to store her photographs,
5 furniture and memories and occasionally visit them from her primary residence in Oakland.
6 Furthermore, any claim of hardship is entirely of her own making. She has always had the
7 power to cure the violation and restore her rights. Against the advice of her own attorney's in
8 open court she has consistently refused to act to restore her life estate. She has done so at her
9 own peril. Unlike Iris Canada, we are not free to act to restore her life estate. She is in
10 violation. We are compelled to remove her.
11

12 12. The delayed recovery, continued stays, and tactics and blatantly false
13 allegations and strategy employed by Iris Canada, and to a greater extent her niece, have
14 created an enormous financial and emotions hardship for us that continues seemingly
15 indefinitely. These hardships are material and substantive.
16

17 13. After six frustrating months (including over our 2014 family vacation) of having
18 our requests to contact Iris Canada to discuss the unoccupied and disheveled state of the
19 property blocked at every turn by her niece Iris Merriouns, we were compelled by binding
20 agreement to revoke the life estate and remove Iris Canada. The stress of have to take legal
21 action against someone you care about without even being able to discuss it with them took an
22 enormous toll on me. It was especially stressful because the remedy was so incredibly
23 simple— a signature that would have no impact on her whatsoever. The stress was further
24 compounded by my professional role as the director of the city office with responsibility of
25 protecting our most vulnerable citizens. But I was 3,000 miles away and had been cut off from
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1 all contact for over two years. On December 14, 2014 I sent one last letter on to Iris Canada by
2 certified mail (it was signed for and received by both Iris Canada and Iris Merriouns) pleading
3 with her to contact me before I was forced to act (attached as Exhibit I-a).

4 *"I am also afraid my efforts to reach you have been stressful on little Iris. Please*
5 *apologize to her for me. My only intent has been, and remains, to talk to you about*
6 *signing the application. But even after three months of trying to communicate thru*
7 *attorneys, we have failed to make any headway. Because I have not heard from you, my*
8 *attorney has advised me we have no option left but to file a lawsuit in court. Given our*
9 *history, this makes me very sad. I remain only a phone call away. I would even be*
10 *willing to fly out to San Francisco to sit down with you if that would make it easier for*
11 *you to answer my questions."*

12 But again, nothing but silence in return. I was left with no choice but to initiate legal action.

13 14. That was only the beginning of a two-year nightmare. Iris Merriouns willfully
14 and knowingly deployed every delay and diversionary trick in the book to drag out proceedings
15 and force us to incur enormous legal expenses—summarized in attached Exhibit J. By the
16 spring we had drained our savings and had to refinance the equity in our home to keep up with
17 expenses. Within few more months we started to compile legal bills that we had no way to pay
18 and on top of that were facing the additional expense of our eldest child starting college in the
19 fall. By the end of 2015 our legal bills were in excess of \$100,000—all due to the bad faith of
20 Iris Merriouns and my failure to secure a simple signature.

21 15. But that is just the opening act of our hardship. More bad faith legal tactics and
22 changes in attorneys caused further delay and pushed the trial date from December to January
23 to February to March. The trial finally took place on March 21 and 22. Iris Canada and Iris
24 Merriouns didn't appear and we were awarded full possession of the unit. Whatever relief we
25 felt was short-lived. Because she knew she had no chance in a court of law where testimony is
26 taken under oath and perjury is a felony offense, Iris Merriouns instead choose to litigate her
27 case in the court of public opinion. After she prevented my attorney access to view the unit
28

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1 both in violation of the rules of discovery and *two* separate court orders commanding her to
2 permit access for months before the trial, days before the first scheduled trial date (which she
3 eventually filed a Federal Removal specifically to prevent), she cleaned up the apartment,
4 staged her aunt to look like she had been living there all along and invited the television
5 cameras to film the alleged travesty of a 99-year-old-widow being thrown out of her long time
6 home (see summary of activity on page 15, line 13). It was a very convincing story and quickly
7 spread as a national news story (attached as Exhibit K). We were vilified across the internet.
8

9 16. The impact of the publicity on our lives was both fierce and swift. We were
10 completely caught off guard. Goaded on by housing activists, the local media in Vermont
11 picked it up story. And while the truth was on our side, it was nearly impossible to counter the
12 powerful but fraudulent story of a 99-year-old widow being evicted. Within 48 hours of the
13 protests and news stories, I realized I had no choice to but resign from my job as Director of
14 Community and Economic Development. No matter what the facts were, the association of my
15 name with such a horrible story was damaging to both the Mayor and my department (attached
16 as Exhibit L). The loss of my job has cut our family income in half as well as losing our health
17 benefits. My professional reputation has been severely harmed. This had both an immediate
18
19

20 and severe impact on my ability to support my family. Until the matter is finally settled in
21 court, the stigma of my association with this unresolved case will continue to create an
22 enormous hardship to prospects of future employment. Any further delay in the case only adds
23 to our double jeopardy hardship—mounting legal debt and loss of income.
24

25 17. Adding insult to injury has been the shameless slandering and harassment of my
26 wife and I by Bay Area housing advocates who couldn't resist making headlines at any cost to
27 promote the very real problem of vulnerable seniors being displaced in San Francisco by
28

1 unfairly scapegoating us while ignoring the real story—Iris Merriouns' real estate grab.
2 Inflammatory social media posts with language and our phone and email addresses resulted in
3 many hundreds of angry and indignant emails and phone calls (attached as Exhibits M & N).
4 As the case has dragged out over the summer and fall with stay after stay, activists have
5 continue to launch personal attacks on us based on lies and misinformation. Any additional
6 stays will only expose my family and I to further hardship and insult.
7

8 18. My neighbors on Page Street have also suffered extreme stress, harassment,
9 economic hardship and disruption of their home life by the actions of Iris Merriouns and the
10 activists. As they have noted in their declarations, they have been victimized by unjust
11 harassment and regular protests—people chanting in the street, defacing their property,
12 screaming in their faces and disrupting their lives (attached as Exhibit O). Not surprisingly, the
13 protests and media events are some of the only times that Iris Canada has come to the property
14 over the past five months. After the media leaves, Iris Canada and her family get back in Iris
15 Merriouns' car and drive back to Oakland. Ironically, my neighbors are all folks who cared for
16 and looked after Iris Canada for the many years she was lived among them. All they have
17 asked is that Iris Canada uphold her agreements and do them no harm.
18

19 19. Iris Merriouns herself has personally attacked and harassed me for over two
20 years. She has accused me of forgery, fraud, theft, breaking and entering, lying, elder abuse
21 and cruelty. She filed a criminal complaint against me in May 2015 (a full year after the
22 alleged incident) that forced me to hire a criminal defense attorney and incur added expense.
23 The charges were all baseless and nothing ever came of them. She further accused me of
24 "slavery" and "putting a rope around her aunt's neck" in the San Francisco Chronicle (attached
25 as Exhibit P). Despite these affronts, I have always strived to work in good faith and remain
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1 respectful and understanding in the face of her continual bad faith and scheming. I believe my
2 long record of reasoned communication with her reflects this. However, enduring such
3 assaults has been emotionally stressful and damaging. I have lost a lot of sleep and suffered
4 great hardship. Any additional stays will only enable her to continue her campaign of
5 intimidation and bullying in pursuit of property rights that are not hers to take.
6

7 20. Finally, the dragging out of court proceedings since the March Judgment is
8 exacting a mounting emotional and financial toll on my family and myself. Over the past six
9 months I have worked nearly full time trying to bring this conflict to resolution. I have made
10 several good faith trips to San Francisco to attempt to negotiate a settlement. I have spent
11 hundreds of hours pleading a path of reason and resolution to community leaders, clergy,
12 elected officials, activists, the media and virtually anyone else who will listen. My attorneys
13 have spent the better part of three months attempting to negotiate settlement and another two
14 months attempting to execute the writ of possession in the face of stay after stay. In 2016, we
15 have incurred additional legal debt well in excess of \$100,000 bringing our total costs close to
16 \$250,000. Given a simple remedy has been available to Iris Canada all along that is simply
17 insane. Without a job, I am planning to move to San Francisco to renovate our property with
18
19

20 sweat equity as soon as we have possession of the unit. Given her age and circumstance, there
21 is no reasonable possibility that Iris Canada could ever again meet the life estate condition of
22 "*permanently residing as the sole and only occupant of the premises*" even if all her appeals
23 were upheld. In light of this, it is simply not fair to continue to deny us the economic use of
24 our property that was awarded to us in March in the face of our extreme economic hardship.
25 Any additional stays will only further increase the burden of our already massive hardship.
26
27
28

1 21. The two years of correspondence that follows demonstrates beyond any
2 reasonable doubt that Iris Canada moved out of her unit in July of 2012, has been in continuous
3 violation of the life estate ever since. There is simply no getting around that fact, and the
4 allegations now regarding a forced sale still do not dispute this evidence. The email record and
5 chronology clearly shows she was not away on vacation or temporarily in the hospital; up until
6 March 2016, she was simply not there. This fact is further corroborated by the declarations of a
7 number of people who lived in the building for the past four years submitted separately.
8

9 22. July 12, 2012 email conversation between myself and Michel Bechirian
10 discussing our alarm and concern over the disappearance of Iris Canada with mail piling up at
11 her door (attached as Exhibit Q).
12

13 23. September 23, 2012 email to Iris Merriouns recounting our recent conversation
14 where she reported that Iris Canada had been "temporarily" moved out and was living with
15 family while a rodent and pest infestation was cleaned up (attached as Exhibit R).
16

17 24. August 17, 2013 a frustrated email to Iris Merriouns asking for a status report
18 on Iris Canada who had now been gone from the apartment for over a year and is four months
19 behind in loan payments. I had not heard a word from either Iris since the previous September
20 (attached as Exhibit S).
21

22 25. September 3, 2013 email chain from Iris Merriouns reporting back that
23 payments had been delayed as she had been sick and out of the country for three months. She
24 does not respond to my clear request on when or if Iris Canada would return to the unit
25 (attached as Exhibit T).
26

27 26. December 3, 2013 email chain with Chris Beahn (who resides above Unit 670)
28 and Iris Merriouns concerning the need to gain entry to unit to install a carbon monoxide

1 detector in the unoccupied unit (attached as Exhibit U). She promises to do it on the weekend.
2 At this point, to the best of my knowledge, Iris Canada has not set foot in the apartment for a
3 year and a half and she had still offered no response to my request for an update on the status
4 of Iris Canada.

5 27. March 17, 2014 email chain with Michel Bechirian (long time neighbor) and
6 Iris Merriouns concerning access to the unit (now unoccupied by Iris Canada for 21 months)
7 for a site survey on April 20th. Although Iris Merriouns promised to show up, she was a no
8 show and Michel used the emergency key to gain access to the unoccupied unit (attached as
9 Exhibit V).

10 28. June 26, 2014 email to Iris Merriouns summarizes my face to face meeting in
11 Oakland with her and Iris Canada in late May immediately following my inspection of the unit
12 at 670 Page Street (attached as Exhibit W). During that inspection, I directly observed an
13 apartment that had been unoccupied for a very long time. All the water in the toilet bowl had
14 evaporated, the kitchen calendar showed July 2012, and the apartment was in complete
15 disarray with rodent traps everywhere and the rear door being blocked by piles of putrid urine
16 soaked carpeting and debris. During our meeting Merriouns asked me not to discuss the state
17 of the apartment with her aunt because "*it would upset her.*" Merriouns also confirmed Iris
18 Canada was living with her in Oakland and going to an Oakland Senior Center while she was
19 at work. She also told me Iris Canada could not be left alone and that was very stressful for
20 her. In the follow up email, I ask for her Oakland address so I can send her a card. I advise her
21 that work needs to be done on the unit, that we assume she still wishes to retain her rights, and the
22 prospective sub-division of the building as condominiums required Iris to sign paperwork that
23 would have no impact on her life estate rights. She never responded.
24
25
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1 19. September 14, 2014 email to Iris Merriouns summarizing three months of
2 efforts to reach Iris Canada and describing my frustration at her complete unresponsiveness
3 (attached as Exhibit X). *"As you know, I have been unsuccessful in my attempts to contact*
4 *your great Aunt Iris Canada thru you since mid June. A full transcript of those efforts are*
5 *included below. As I explained in numerous emails, texts, and voicemails, I need to speak with*
6 *Iris about: 1) executing some paperwork; 2) the code work being done at 670 Page; and 3) the*
7 *status of her Life Estate. Due to the lack of response, I have handed the matter over to our*
8 *attorney (Andrew Zacks)."* Again, there was no written response but she did call me to
9 complain about the removal of debris that had been blocking the back egress door in late May
10 per the instructions of the San Francisco Department of Building Inspection inspector and
11 reiterated in his final inspection report. It was clear she had not even set foot on the property
12 since late May despite my face to face report on the state of disarray in the apartment. It had
13 now been 26 months since the unit was occupied by Iris Canada.
14

15 20. September 17, 2014 email to Iris Merriouns following up on phone conversation
16 (attached as Exhibit Y). She called in response to a communication from attorney Zacks
17 requesting 1) she contact him concerning the condominium conversion process, confirming 2)
18 Iris Canada's assistance would have no impact on her rights and informing her 3) that if she did
19 not choose to respond, we would be forced to invoke our rights under the life estate. I confirm
20 in my email there would be no need for further involvement of attorneys if she cooperated.
21
22

23 21. September 21, 2014, follow up email to Iris Merriouns in which I notified her
24 that due to her lack of response, I was referring the matter back to our attorney (attached as
25 Exhibit Z). I once again requested contact information for Iris Canada. Again no response.
26
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1 22. October 1, 2014 email from Michel Bechirian on behalf of the TIC group
2 advising me that if cooperation was not secured soon, the TIC group would compel me to
3 *"take all necessary action to revoke Iris Canada's Life Estate and remove Iris Canada"* as we
4 are obligated to do by the Fourth Amendment to our TIC Agreement if Iris Canada violates the
5 life estate agreement (attached as Exhibit AA). It was now clear she had been in violation of
6 the life estate for more than two years by her failure to permanently reside as the sole and only
7 occupant.
8

9 23. October 14, 2014 email from Geoff Pierce (common wall neighbor to 670 Page)
10 reporting Iris Canada in the building for the first time in more than two years. *"Iris is in the*
11 *building. I REPEAT. Iris is in the building."* In a follow-up email that evening, he recounts his
12 strange conversation with Iris Merriouns (*"young Iris"*) and wonders why she is *"bringing Iris*
13 *all the way over (from Oakland) to do a dog and pony show"* (attached as Exhibit BB).
14

15 24. November 15, 2014 email from Geoff Pierce with photo of Iris Canada's front
16 door with a week of unclaimed UPS delivery notices. From October forward, the building
17 occupants are paying particular attention to when either Iris is seen on the property. He reports
18 the niece came alone for a short time with another woman (attached as Exhibit CC).
19

20 25. December 19, 2014 email from Michel Bechirian reporting both Irises arriving
21 at the building at 9:30 pm. Alex Apke (another longtime neighbor) reports them both leaving
22 30 minutes later (attached as Exhibit DD). This the second time Iris Canada has been on the
23 property for a short time that fall. The unit has now been unoccupied for a full two and half
24 years.
25

26 26. May 8, 2015 email from Geoff Pierce reporting the arrival of both Irises at the
27 building for 2.5 hours and the arrival of the process server (attached as Exhibit EE). Since
28

1 December, Iris Merriouns had been playing a cat and mouse game with our attorney Mark
2 Chernev to cause delay, pile up our legal expenses, and avoid being served legal papers.

3 27. October 7, 2015 email to Mark Chernev forwarding report of both Irises staying
4 overnight in the unit on the night of October 6th in advance of Iris Merriouns October 7th
5 deposition (attached as Exhibit FF). The email chain also reports the retrieval of legal notices
6 that had been piling up at the door since August 20th. To the best of my knowledge, this is the
7 first time Iris Canada had stayed overnight in the unit in 39 months—over three years—and
8 only the fourth time she had been on the premises in that period. She has never been there by
9 herself. She is clearly not permanently residing as the sole and only occupant.

10 28. November 22, 2015 email from Geoff Pierce to Mark Chernev reporting both
11 Iris Canada and Iris Merriouns in the building that evening with a cleaning crew (attached as
12 Exhibit GG).

13 29. March 4, 2016 email exchange with Geoff Pierce, Alex Apke, and Mark
14 Chernev in which Alex reports seeing both Irises carrying bags and suitcases into the building
15 several times in the last 2-3 weeks. Geoff reports hearing *"more activity in there than I have*
16 *ever heard in the past 5 years."* I worry that they are staging the apartment to make it appear
17 as though Iris Canada is living there just before the trial date (attached as Exhibit HH). Mark
18 responds that because of the defendant's refusal over 15 months to allow inspection to
19 evidence that Iris Canada had been living there resulted in discovery sanctions that should
20 prevent any kind of evidentiary bait and switch in the court room. Previously referenced
21 Exhibit J provides a full accounting of all the delay tactics and bad faith employed by Iris
22 Merriouns over a year and a quarter of legal proceedings.
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1 30. March 9 & 10, 2016 emails from Alex Apke and Geoff Pierce reporting an
2 unknown person is now living in the unit for unknown reasons (attached as Exhibit II & JJ).
3 They have seen him coming and going and include a photograph of a package addressed to him
4 being to delivered to the unit. He is reported to have been staying with Iris Canada at the unit
5 for several days.

6
7 31. March 14, 2016 email from Geoff Pierce reporting Comcast Truck installing
8 cable service at 670 Page Street just days before the trial date (attached as Exhibit KK). All of
9 this sudden flurry of activity after four year of nothing is clearly part of staging the apartment
10 for the purposes of trying her case in the court of public opinion rather than a court of law
11 where perjury is a felony.

12
13 32. The trial occurred on March 21-22. The court issued a Judgment in our favor
14 terminating the Life Estate, foreclosing the Deed of Trust and awarding us full possession of
15 670 Page Street (attached as Exhibit LL). It additionally granted our Motion for Summary
16 Judgment (attached) finding that, based on the evidence presented, "*Defendant Iris Canada*
17 *has failed to permanently reside at the premises as the sole and only occupant*" (attached as
18 Exhibit NN). The verdict is entirely consistent with record evidenced by the nearly four years
19 (from 2012 to 2016) of emails and communications described above.

20
21 33. From April thru the end of August—five months—we bent over backwards
22 again and again to restore the life estate and bring the matter to mutually agreeable conclusion.
23 Our efforts were blocked at every turn by the bad faith actions of Iris Merriouns.

24
25 34. In mid-April, in response to the defendant's Motion for Relief of Forfeiture, in
26 advance of the ruling we offered the defendant full relief in exchange for cooperation on the
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28

1 condominium conversion. In the courtroom, against the advice of both of her attorneys, Iris
2 Merriouns pressured Iris Canada to refuse.

3 35. On April 27, 2016, the court, determining that the violation was *not* "grossly
4 negligent, willful or fraudulent" granted to the defendant's Motion for Relief of Forfeiture
5 (attached) subject to the Defendant compensating our legal fees and complying with the life
6 estate terms (attached as Exhibit MM). Again we offered to waive the ordered legal fees in
7 exchange for cooperation on the condominium conversion (attached as Exhibit OO). Again,
8 against the advice of both of her attorneys, Iris Merriouns pressured Iris Canada to refuse.
9

10 36. After listening to a radio interview with Iris Merriouns on the Brian Copeland
11 show, I optimistically concluded that the whole conflict MAY have been rooted in a basic
12 misunderstanding of the life estate by Iris Merriouns. On May 28, 2016 I took the initiative to
13 write to Iris Merriouns and request a meeting (attached as Exhibit PP). I travelled to the west
14 coast to meet with Iris Canada, Iris Merriouns and her father in early June for over two hours to
15 better understand their concerns. Based on that conversation and a second conversation with
16 Iris Merriouns two days later from the airport, it was my belief we would be able to reach a
17 settlement.
18

19 37. Despite the arrival of a new attorney (now the defendant's 10th attorney),
20 Dennis Zaragoza, I continued to encounter more non-responsiveness to my emails and phone
21 calls. Finally, on June 30, 2016 I sent a letter directly to Iris Canada outlining settlement terms
22 that I understood to address every possible issue they had raised with the goal of settling prior
23 to Iris Canada's 100th birthday on July 13th (attached as Exhibit QQ). Despite promising
24 otherwise, Iris Merriouns refused to let me visit with her aunt after travelling across the
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1 country to wish her a happy birthday. However, I retained some slim hope that settlement
2 discussions might still be successful.

3 38. Over the course of many communications between attorney's in the month of
4 July, we agreed to several other requests including setting aside the judgment and offering Iris
5 Canada the right of first refusal. However, in late July it became apparent that the defendant
6 had a new condition—she was going to insist on a forced sale at a deeply discounted price
7 despite having been told in our face to face meeting in June that was not acceptable us. Mark
8 Chernev replied as such in his August 4, 2016 letter (attached as Exhibit RR).

9
10 39. On August 8, 2016 Iris Merriouns violated our good faith agreement to refrain
11 from any further legal action during settlement discussions by filing a notice of appeal
12 contesting the legal fees that we had already offered to waive for the past three months. This
13 was a huge disappointment. On August 9, 2016 I wrote back to her to express my dismay at
14 her action and my understanding that she was no longer interested in settling (attached as
15 Exhibit SS)
16

17 40. On August 10, 2016 the court granted our motion finding non-compliance with
18 condition of relief and compelling execution of writ of possession "*promptly and without*
19 *delay*" (attached as Exhibit TT)
20

21 41. Despite this ruling in our favor, we delayed serving the sheriff until the end of
22 the month in order to give the defendant every possible chance to drop her demand for a forced
23 sale of our property. On August 24, 2016, I sent out a "*Final Appeal for Iris Canada*" to Iris
24 Merriouns and cc'd anyone and everyone I could think of in the Bay Area that might be able to
25 exercise some influence over this matter including the Bishop of her church, her family,
26 housing activists, the media, the District Attorney, the Mayor and the Board of Supervisors
27
28

1 (attached and previously referenced as Exhibit I on page 5). Despite multiple follow up
2 communications with Iris Merriouns between attorney Chernev and attorney Zaragoza, she
3 refused to withdraw her forced sale demand and we proceeded with re-possession of the
4 unoccupied unit as promised in my letter in early September.

5
6 42. Despite the benefit of nearly two months of additional time in September and
7 October due to multiple court granted stays, the defendant has still declined to bring forward a
8 settlement offer without a forced sale demand.

9
10 43. On September 18, 2016 I sent a certified letter to Iris Canada at 670 Page Street
11 in San Francisco telling her that *for more than two years I literally done everything within my*
12 *power to get you back home* and how badly I felt that the actions of her niece had denied her
13 the chance to return home and created needless stress in her golden years (attached as Exhibit
14 UU). The US Postal Service letter reported on October 21, 2016 that the letter had been
15 returned after 21 days as undeliverable due to no recipient at the address and expiration of
16 holding period (attached as Exhibit VV)—a final testament to Iris Canada's continued failure
17 to permanently reside at the sole and only occupant at 670 Page Street.

18
19 44 Finally, my declaration addresses allegations that 1) the life estate was a ruse to
20 avoid future disqualification from condominium conversion and 2) that Iris Canada was
21 unfairly denied the opportunity to purchase her unit outright.

22
23 45. The allegation that we opted for the life estate to avoid a disqualification on a
24 future application for condominium conversion is a complete fabrication and would have been
25 impossible because the legislation restricting condominium conversion of buildings with
26 certain evictions was still more than three years in the future. In early 2003 all tenants except
27 Iris Canada moved out due to termination of their tenancy under the Ellis Act. Because our
28

1 desire was to avoid displacing Iris Canada if at all possible, we voluntarily granted her an
2 extension and spent a year and a half to drafting, revising and executing the life estate with her
3 attorney, Stephen Collier of the Tenderloin Housing Clinic.

4 46. In a January 26, 2005 email attorney Collier reports *"I have reviewed the life*
5 *estate documents and discussed them with my client"* and identifies three remaining concerns:
6 1) monthly payment amount, 2) loan repayment terms, and 3) property taxes—none are related
7 to condominium conversion (attached as previously referenced Exhibit C on page 3). In my
8 January 31, 2005 email to our attorney Denise Leadbetter, I summarize our good faith intent to
9 protect the welfare of Iris Canada. *"It has always been our interest to make sure this will work*
10 *for Iris. We realize that she doesn't have any financial reserves or much in the way the way of*
11 *family to fall back on. We have gone to great lengths to work out a resolution that allows her*
12 *to stay in her home on very reasonable terms for the rest of her life. And lastly, we are fond of*
13 *Iris. We care about her well-being. I visit her whenever I am in San Francisco. I check up on*
14 *her regularly with the help of our TIC partners who live in the building. And we will continue*
15 *to do that"* (attached as previously referenced Exhibit B on page 2). As previously referenced
16 on page 9, Iris Merriouns, has publically characterized our efforts on her aunt's behalf as
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20 equivalent to "slavery" and "putting a rope around her neck."

21 47. The life estate was initially conceived in late 2003 executed and executed on
22 June 15, 2005. It was granted nearly a full year before adoption of the so-called "Peskin" law
23 *"amending the Subdivision Code to add Section 1396.2 to prohibit condominium conversion*
24 *for a building where specified evictions occurred"* that created the retroactive May 1, 2005
25 date for eviction notices (no fault) for two or more tenants or one or more senior/disabled
26 tenants (attached as Exhibit WW). The amendment was introduced on April 4, 2006 and was
27
28

1 adopted on May 22, 2006. Furthermore, the parties had agreed to the life estate in concept in
2 early 2004—well over two years ahead of the legislation. Finally, all four tenants had been
3 served eviction notices on September 4, 2002 and three had moved out. Because two or more
4 tenants had been already evicted, whether or not Iris Canada was also evicted would have had
5 no bearing on any prospective disqualification of the building from conversion per Section
6 1396.2 of the Subdivision Code. The allegation is fully invented and without merit.
7

8 48. A second allegation that we unfairly denied the right of Iris Canada to purchase
9 her unit is also total fabrication, without merit or basis, and offered solely to advance Iris
10 Merriouns' goal to force a sale of the unit for her personal gain and profit. First, there never
11 has been a "right to purchase" associated with Ellis Act removals or sale of TIC units. None of
12 the existing tenants in 2002 had the right to purchase including Iris Canada. Secondly, the five
13 TIC units were all publically advertised for sale including signs on the building. All the tenants
14 were free to buy any of the TIC units. But no tenant (including Iris Canada, her family or her
15 attorney over more than three years of discussions) ever expressed any interest in buying a TIC
16 unit. Iris Canada's unit never came on the market because instead of evicting her and selling it,
17 we voluntarily offered a life estate ownership interest, for the sole benefit of Iris Canada, while
18 retaining our long term ownership of the unit after she passed. She gratefully accepted.
19
20

21 49. Thirdly, there was and remains today no imaginable scenario by which Iris
22 Canada, who attorney Collier reports in his email to have no assets and a monthly income of
23 \$1,181 / month, could ever buy the unit by herself. And why would she? She already has what
24 elderly folks on a fixed income need—affordable and secure housing. For well over a decade,
25 we have subsidized her ability to live in her large 2-bedroom apartment for \$700 / month—a
26 tiny fraction of the monthly payment required to buy it outright—and more importantly
27
28

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104


1 something she could realistically afford. Iris Canada would need someone else's money to buy
2 the unit outright. The only possible beneficiary of a 100-year old woman buying the unit
3 outright would be someone other than Iris Canada.

4 50. Finally, any purchase rights associated with condominium conversion are
5 restricted to renters. Iris Canada is explicitly not a renter. As the attached Title Report shows,
6 she owns a recorded Life Estate property interest with a recorded Deed of Trust and
7 Promissory Note (attached as Exhibit XX). Our May 2014 application submitted without Iris
8 Canada's signature because the unit was unoccupied was deemed incomplete by San Francisco
9 DPW because we did not have the signatures of all the titled owners, specifically Iris Canada
10 (attached as Exhibit YY). As a holder of a titled interest, she is not a renter and has no right to
11 purchase. And even if she was a renter (she is not), the May 2014 application holds no
12 obligation to sell to the unit to Iris Canada. The application showed the unit unoccupied. It was
13 never signed by Iris Canada. The application was never accepted by DPW as complete due to
14 the missing owner signature and the subsequent refusal of Iris Canada to grant it. DPW has
15 since changed forms and the old one is defunct.

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

18 DATED: October 28, 2016

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PETER M. OWENS

FAXED

EXHIBIT S

*The Owens Family
7 Sargent Street
Hanover, NH 03755*

June 30, 2016

Iris Canada
670 Page St
San Francisco, CA 94117

RE: Proposed Terms of Settlement Agreement

Dear Iris,

I hope this letter finds you well. It was so good to see you in early June. Meeting with you and your family gave me great insight into how we could have gotten so miserably far off track. I am glad we are back on track again. I saw us both on ABC 7 news yesterday. We both looked really tired. I heard you say "I'm cold and I want to go back inside." I am writing to you with a proposal to do just that—get you back in your home, safe and warm, where you belong.

This letter follows up on a conversation I had with your grandniece, Iris Merriouns, at SFO on June 9th as I was waiting for my flight home. I told her I wanted this to stop. I told her I did not want to see you needlessly troubled anymore. She assured me that you were not intentionally trying to harm the other folks in the building. She told me you just needed more time to better understand any impact that cooperating with the condo conversion would have on your Life Estate (ownership) rights. I told her I fully supported that request.

We agreed that we both had your welfare at heart. We agreed that both sides had suffered enough. We agreed we'd refrain from any further legal actions and instead work together in good faith to bring this matter to a conclusion that allowed you to return to safely and securely to your home and allowed the other folks in the building to get on with their lives.

To that end Carolyn, Stephen and I propose we agree to the following terms of settlement:

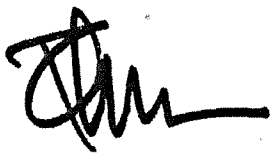
1. Peter, Carolyn and Stephen will forgive the \$169,466.²³ legal fees due to us per condition #1 of Court Order dated April 27, 2016 and the related Order dated June 8, 2016.
2. Peter, Carolyn and Stephen will accept arrears payments made to date as "payment in full" through May 2016 per condition #2 of Court Order dated April 27, 2016.

3. Peter, Carolyn and Stephen will offer to strike condition #5 of Court Order dated April 27, 2016 and replace it with a simple promise from Iris Canada and her family to keep us apprised by email if Iris needs to or expects to be away from her home for an extended period of time.
4. All of the rights and responsibilities contained in the entire Deed of Trust, the Grant of Life Estate, the Promissory Note, and the Order dated April 27, 2016 will remain in affect, except as set forth by terms 1, 2 and 3 above.
5. Iris Canada will make herself available and execute all required condo conversion documents for 668-678 Page Street.
6. Iris Canada will cooperate as required for any and all additional work related to the condo conversion process for 668-678 Page Street, which includes the code compliance work and executing the follow-up declarations which must be completed approximately one year from now.
7. Peter, Carolyn and Stephen will guarantee Iris Canada that she will have no financial obligations related the conversion process.
8. Peter, Carolyn and Stephen and the other building owners will guarantee that Iris Canada is not waiving any rights by signing the documents.
9. Peter, Carolyn and Stephen will work with Iris Canada and her family to make any reasonable accommodation to help Iris Canada age in place so long as it does not jeopardize their ownership rights following the Iris Canada's passing, however Iris Canada remains precluded from permitting any tenancies to be established at 670 Page Street.
10. Peter, Carolyn and Stephen, Iris Canada and the other building owners, will work in good faith to ensure a safe and peaceful environment at 668-678 Page Street for all residents, and especially for our elder Iris Canada.

We feel these terms generously reflect the concerns we have heard from all parties in recent discussions. Please let us know if these terms are acceptable by Friday July 8th. That will give the attorney's time to craft the final agreement in time for your 100th Birthday on July 13th.

Wouldn't that be a grand birthday present!

With warm regards,

A handwritten signature in black ink, appearing to read 'Peter Owens', with a stylized flourish at the end.

Peter Owens (for Carolyn Radisch and Stephen Owens)

Accepted and Agreed:

By: _____
Iris Canada Date

EXHIBIT T

August 9, 2016

RE: Filing of Legal Appeal

Dear Iris Merriouns:

I was deeply disappointed to learn last night that your attorney has filed a notice of appeal regarding Judge Robertson's most recent Order. As you well know, we had a working agreement that as long as we were in good faith settlement discussions, we would both refrain from filing any further court actions. I trusted you when you told me on June 9th that you'd work with me to get Iris Canada back in her home. I took you at your word when you told me you wanted to settle but simply needed time to understand the condo paperwork. You have now had over two months.

You have said many times Iris Canada was no longer able to live at 670 Page under the Life Estate terms. We have bent over backwards to understand your concerns and offered very generous terms that would allow Iris Canada to re-occupy 670 Page Street. We put these terms in writing on June 30th and again on July 18th in a slightly revised letter responding to your added concerns. We have offered:

- Waiving all attorney's fees
- Accepting arrears payments
- Waiving all conditions of judgment
- Waiving all court ordered sanctions and penalties
- Setting aside the judgment
- Rights for a live in caregiver
- Improvements to the unit
- Right of first refusal if unit is ever sold
- Guarantee of no liability or waiving of rights from cooperation
- Guarantee of no financial obligation from cooperation

In short we have offered all conditions necessary for Iris Canada to securely return to the place she considers home for the rest of her life. We have been waiting patiently for your attorney to send the settlement language for us to review. There is virtually nothing else we can offer Iris Canada.

Instead you have filed an appeal that extends the litigation, increases legal costs and is frankly pointless. We have already offered, numerous times over the last four months to waive the fees completely as part of a settlement. You have shown what many suspected all along—this has never been about Iris Canada's welfare, this is about taking advantage of your elderly aunt to advance your own interests.

We presume by your action that you are no longer interested in reaching a settlement to restore Iris Canada's home. Until I hear otherwise, I will assume that settlement discussions have failed.

I am deeply disappointed that now, after we have offered every assurance you have requested, and have done everything we can to see that Iris Canada enjoy the remainder of her years at 670 Page Street, you have instead chose to reject our efforts and instead seek to continue to litigate towards whatever ends we can only imagine.

-Peter Owens
(for Carolyn Radisch and Stephen Owens)

EXHIBIT U

The Owens-Radisch Family
theothersideofthestory@gmail.com

August 24, 2016

Ms. Iris Merriouns, Chief of Staff
Office of Vice Mayor Larry Reid
Second Floor, Council District 7
Oakland City Hall, 1 Frank Ogawa Plaza
Oakland CA 94612
ILMerriouns@oaklandnet.com

RE: Final Plea for 100-Year-Old Iris Canada

Dear Iris,

I am deeply disappointed you have terminated months of good faith settlement talks by delivering an ultimatum that demands we sell you our San Francisco apartment. I had honestly believed we shared the goal of restoring your great aunt, Iris Canada, to the place she calls home. This no longer appears to be the case.

Well over a decade ago, after purchasing the Page Street building, and long before you were known to me, we worked with Iris Canada's attorneys to come up with a way for your aunt, then age 86, to live the remainder of her life at Page Street because it was the right thing to do. Since the building could no longer have renters, we voluntarily granted her, free of charge, a record ownership interest (a conditional life estate) for the rest of her life for a fixed payment of \$700 / month—an amount far below our carrying costs. As you know, the life estate is an ownership interest in real property, which gave your aunt the right to live at and use the property during her lifetime, after which the life estate ends and ownership reverts back to our family. That's what the "life" in "life estate" means. The only significant condition was that she actually live there—permanently, as the sole and only occupant. That was to address our main concern that someone unknown to us could take advantage of her and our intent. Never in our wildest dreams did we imagine this concern would materialize. Our intention was always that the life estate benefit Iris Canada and Iris Canada alone. It was not created to benefit you.

As you—not Iris Canada—would be the obvious beneficiary of any forced sale, your ultimatum raises a serious question of intent. Your actions have not only placed a tremendous emotional and financial burden on my family, but also exposed your kind and elderly aunt to needless duress and worry by making her the face of your agenda. We simply cannot understand why you are placing your interests ahead of your aunt's and preventing us from restoring her life estate as swiftly as possible.

Your mistaken belief, and insistence, that your aunt has a fixed-price purchase option is completely without merit or basis. You may continue to insist otherwise, but there exists absolutely no obligation on our part, either by law, honor or promise, to ever sell you or your aunt the property. We granted her a conditional life estate after working with the Tenderloin Housing Clinic to achieve exactly what elders on fixed incomes need—secure and affordable housing. At no time during the lengthy life estate discussions did anyone, you included, ever express any interest in purchasing the property for the obvious reason that your aunt did not want to, nor did she have the financial resources to do so. Forcing a sale now is factually improper, entirely self-serving, and most importantly preventing restoration of the life estate at your aunt's expense.

As we both know, your aunt has not lived at 670 Page Street since 2012. She has been living with you in Oakland. As a result, her life estate has been terminated by law and she no longer has any rights or interest in the property. These factual findings made by the Superior Court are consistent with overwhelming evidence supporting she has not lived there for years. This evidence includes my personal observations, the sworn statements of her former neighbors, her cancelled meal delivery service in 2012, the virtually uninhabitable nature of the property, as well as your own sworn testimony that you have been overseeing her care at your home for almost four years.

Your recent efforts to stage the property, now after the fact, are disingenuous and completely at odds with your actions since December 2014. For the past year and a half, you and your aunt had numerous opportunities to address the merits of her occupancy. Not once during that entire period did you ever present any evidence supporting that your aunt was living at Page Street. Three separate times you failed to allow court ordered inspections of the property as "occupied," and you frustrated all efforts along the way to confirm where your aunt was living. Instead, you employed bad faith tactics such as bankruptcy filings, improper removals to Federal Court on multiple trial dates, and twice attempting to have criminal charges brought against me. Your actions have been in bad faith and done solely to increase costs, cause delay, intimidate, and most importantly, prevent any findings on the merits. The fact that you have been personally sanctioned over \$4,700 by the Superior Court further evidences the nature of your efforts.

Once your aunt's life estate was terminated in March, the Superior Court was willing to restore the life estate on the condition that she honor the violated life estate terms and reimburse our family for what we suffered as a result of your bad faith efforts. Those costs exceed \$160,000 and continue to grow. We never sought attorney's fees from your aunt; it was the Court who ordered these fees to be paid as a condition of her receiving the relief that *she* asked for.

We have never wanted your aunt's money, we have never wanted to revoke her life estate—we have only ever wanted her cooperation. As you are well aware, in 2014 the building became eligible to convert from tenancies-in-common (TIC) to condominium ownership. It is simply a change in the ownership structure of the 6 units. Iris Canada's cooperation was necessary because the life estate made her a temporary record owner, and not simply a tenant or occupant in the traditional sense. Cooperation would have

absolutely no impact on the life estate or your aunt's ability to live at Page Street for the rest of her life. Cooperation would help her neighbors—good people who she relied on and who looked after her for many years.

You have resisted all our efforts seeking cooperation and have seemingly hid not only our request from your aunt, but also the benign nature of the conversion as well. For example, in April when we were about to restore your aunt's life estate while court was in session, you openly advised your aunt to reject the advice of both her attorneys to restore her life estate by signing the conversion papers. Then, in early June, I watched your aunt read, *for the very first time*, my December 2014 letter pleading with her to contact me regarding her cooperation—a letter you willfully hid from her for 18 months.

Over the past four months, we have bent over backwards to restore your aunt's home, by offering to set aside the judgment, restore the life estate, waive all of the attorney's fees, the arrears, and the sanctions ordered, and make provisions for a full time caregiver—in short virtually everything you asked for. Our only request in return is that she cooperates with the conversion. You have refused.

Now, four months later, with no factual or legal basis, you have presented us with a new financial ultimatum: *either we agree sell your 100 year-old aunt the property at a windfall price or she will refuse to cooperate with the conversion*. Why Iris Canada, a 100-year-old woman, who just declared bankruptcy, who is on social security with virtually no assets, who can be fully restored of her life estate with a full time caregiver for \$700/month, would possibly want to purchase a San Francisco two-bedroom condominium, even if she could force a purchase, is beyond rationale. It is now clear you have been using your aunt's cooperation as leverage to advance your own interest in forcing a sale at a bargain price.

We are not agreeing to sell the property to anyone, your aunt included. It has always been our intent to hold 670 Page Street for our family's long-term use; hence the life estate. My family has deep roots in San Francisco. Carolyn's mother grew up here and attended Lowell High, and her immigrant father worked in the Hunter's Point Naval Shipyard during World War II. Both of our children were born in San Francisco. Even so, we have already agreed that if the property is ever sold during your aunt's lifetime, we are more than willing to offer her an opportunity to purchase it first. What we cannot agree to, however, is a forced sale at any price.

We are pleading with you to please put your aunt's interests ahead of your own. You are not entitled to any benefit from our relationship with your aunt simply because you are related to her. Your insistence that we sell the property is not only self-serving, it is at the expense of your aunt. Please put your personal interests aside and permit us to restore the life estate. We intend to hold off on recovery until the end of the month to give you one final opportunity. If you are unwilling to permit us to restore the life estate without forcing a sale, you leave us no choice but to recover possession.

If that is truly your decision, please convey to your aunt our deepest regrets and why your actions have led to this senseless outcome.

Sincerely yours,



Peter Owens (for Carolyn Radisch and Stephen Owens)

Cc

San Francisco Board of Supervisors
Office of Mayor Ed Lee
San Francisco District Attorney
San Francisco Sheriff's Office
Oakland City Council
Office of Mayor Libby Schaaf

Iris Canada
Dr. Harvey S. Merriouns
Bishop Alfred Johnson, Jones Memorial
United Baptist Church
Dr. Amos C. Brown, Pastor Third
Baptist Church
San Francisco Tenants Union
Housing Rights Committee of SF
Senior & Disability Action
Poor Magazine

San Francisco Chronicle
East Bay News
(former Oakland Tribune)
East Bay Express
EBCitizen.com
NY Times
Wall Street Journal
Bay City News
Hoodline
48 Hills
SF Bay View
SF Weekly
SFist.com
Socket Site
CurbedSF

Bay Area News Group
Oakland Magazine

Fox 2 KTVU
ABC 7 KGO
CBS 5 KPIX
NBC Bay Area KTVN
KQED
KPFA
KGO Brian Copeland Show

668-678 Page Street TIC Association
Mark Chernev, Esq.
Andrew Zacks, Esq.
Dennis Zaragoza, Esq.
Andy Sirkin, Esq.

EXHIBIT V

Dozens At City Hall Protest Eviction of 100-Year-Old Woman from Her S.F. Apartment

February 10, 2017 10:23 PM

Filed Under: Bay Area Housing, Bay Area Rent, Eviction, Real Estate, San Francisco Evictions



Dozens at City Hall protested the eviction of Iris Canada on Friday. (Bay City News Photo)

SAN FRANCISCO (CBS SF) — San Francisco Sheriff Vicki Hennessy briefly faced off with protesters Friday afternoon inside City Hall, as the group denounced the eviction of a 100-year-old woman from her Western Addition apartment earlier on Friday.

About 50 protesters arrived at City Hall at 3:30 p.m. to hold a rally outside of the Sheriff's Department, in response to Iris Canada being evicted by sheriff's deputies from her apartment at 670 Page Street, which she's lived in for more than 50 years.

Sheriff's deputies arrived around 11:30 a.m. and changed the locks, after a San Francisco Superior Court judge recently ruled that an eviction could take place since Canada had failed to pay court-ordered attorneys fees.

According to Tommi Aviccoli Mecca, an organizer with the Housing Rights Committee, Iris was not home at the time of the eviction and her medications and wheelchair remain inside.

Hennessy said that the department considered many options and ultimately decided that changing the locks would be the safest one, as protesters responded with a number of slogans, including "let Iris in" and "recall Hennessy."

The sheriff's department is required by state and city law to execute evictions approved by the court.

According to the sheriff's department spokeswoman Eileen Hirst, sheriff's officials have visited the property more than 20 times in the last two years in order to provide Canada with information about social services and programs available to the centenarian.

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"Her age was of great concern to us as we moved forward. In this case, as in all, we proceeded to perform in a respectful and compassionate manner," Hirst said.

Canada has been in a dispute for years with her landlords, who claimed that she hasn't lived in the unit since 2012.

In 2005, Canada was granted a lifetime estate to her apartment while the rest of the units in the building underwent an Ellis Act eviction.

However, Canada's landlords then moved to terminate that lifetime estate in 2014, alleging that Canada had been living with family members in Oakland since 2012 and allowed the unit to fall into disrepair.

In April, the court found in the landlord's favor, ruling that Canada could stay in her apartment only if she accepted strict limits on her occupancy and paid the property owners' attorney's fees, which total more than \$150,000.

In August, Mark Chernev — an attorney for property owners Peter Owens, Stephen Owens and Carolyn Radishe — said that they would drop the demand for legal fees and let Canada stay if she agreed to sign paperwork allowing the building to convert to condos, but she refused to sign the papers and, with help from her niece Iris Merriouns, asked the owners to sell her the unit at a discounted price.



In August, Mark Chernev — an attorney for property owners Peter Owens, Stephen Owens and Carolyn Radishe — said that they would drop the demand for legal fees and let Canada stay if she agreed to sign paperwork allowing the building to convert to condos, but she refused to sign the papers and, with help from her niece Iris Merriouns, asked the owners to sell her the unit at a discounted price.

"Her tenancy has been terminated, and her locks have been changed as of this morning," an attorney for the landlords, Andrew Zacks, said.

Zacks added that the eviction was "done safely" and that Canada is now "safe and sound, living with her niece in Oakland, where she has been since 2012."

Merriouns had argued that the building's landlords should have offered Canada the option to buy the unit at a below market rate.

San Francisco Board of Supervisors President London Breed had shown a great deal of support for Canada's case last year, saying back in April, "as a city we have to do better. Allowing our seniors to get kicked out of their home shouldn't even have to be an option. Where's the love, where's the compassion?"

Friday, Breed addressed the eviction on Twitter, saying that she had tried to help Canada for years, including offering housing options but Canada and Merriouns were not interested in the services Breed had offered.

An attorney for Canada was not immediately available for comment.

EXHIBIT W

[Subdivision Code - Condominium Conversion Impact Fee]

Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion impact fee applicable to certain buildings qualifying for participating but not being selected or participating in the 2013 or 2012 condominium conversion lottery only that would be permitted to convert during a sixseven year period, and subject to specified requirements, including lifetime leases for non-purchasing tenants; adding Section 1396.5, to suspend the annual condominium conversion lottery until 2024 and resume said lottery under specified circumstances tied to permanently affordable rental housing production; amending Section 1396, to restrict future condominium lotteries to buildings of no more than four units with a specified number of owner occupied units for three years prior to the lottery and provide an exception for certain five- and six-unit buildings to participate in the lottery; and adopting environmental findings.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike-through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. Findings. (a) The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 120669 and is incorporated herein by reference.

1 (b) This Board finds that the condominium conversion impact fee as set forth in this
2 legislation is an appropriate charge imposed as a condition of property development, which in
3 this case is the City's approval of a condominium conversion subdivision, a discretionary
4 development approval pursuant to the San Francisco Subdivision Code and the California
5 Subdivision Map Act. Based on data, information, and analysis in a Condominium Conversion
6 Nexus Analysis report prepared by Keyser Marston Associates, Inc., dated January 2011, and
7 the findings of Planning Code Section 415.1 concerning the City's inclusionary affordable
8 housing program, this Board finds and determines that there is ample evidentiary support to
9 charge the impact fee set forth herein as it relates to a subdivision map approval that allows
10 the conversion of existing dwelling units into condominiums. Said impact fee charge also is
11 lower than the fee amount supported in the abovementioned Nexus Analysis report. As a
12 consequence the Board finds that the amount of this charge is no more than necessary to
13 cover the reasonable costs of the governmental activity and programs related to condominium
14 conversion. The Board further finds and determines, that based on this evidence, the manner
15 in which these fees are this charge is allocated and assessed on a per unit cost for each unit
16 converted to a condominium bears a reasonable relationship to the subdivision applicants'
17 burdens on the City that result from the change in use and ownership status from a dwelling
18 unit within an unsubdivided property to a separate interest in a condominium unit. A copy of
19 the report on the fee charge identified herein is in Clerk of the Board of Supervisors File No.
20 120669 and is incorporated herein by reference. The City Controller's Office has
21 independently confirmed that the fee amounts identified in said report remain valid. This
22 determination is on file with the Clerk of the Board of Supervisors File No. 120669 and is
23 incorporated herein by reference.

24 (c)(1) The Board further finds that the present backlog of existing applications for
25 condominium conversion under the existing 200-unit annual condominium conversion lottery

1 process in Subdivision Code Article 9 (Conversions) extends well over a decade. Indicative of
2 this backlog, approximately 700 tenancy-in-common (TIC) and other owner-occupied
3 buildings, containing 2,269 dwelling units, registered for the 2013 lottery condominium
4 conversion lottery in an effort to be selected for the 200 units that were available. The
5 proposed expedited approval process for condominium conversions (the “Expedited
6 Conversion program”) is intended as a one time adjustment to the backlog in applications for
7 conversions given the specific needs of existing owners of tenancy-in-common units.
8 Therefore, the eExpedited eConversion program set forth in this legislation’s proposed
9 Section 1396.4 is intended as the exclusive method for allocating approvals for conversions of
10 apartments and tenancy-in-common buildings into condominiums for the entire period that is
11 established in the proposed Section 1396.5.

12 (2) The Expedited Conversion program that this Ordinance creates will bring
13 significant economic value to owners who utilize it. According to the City Controller’s April 2,
14 2013 Economic Impact Report, condominium conversion “creates clear financial advantages
15 for owners of tenancies-in-common (TIC) buildings.” In addition to the estimated 15%
16 premium gained by converting a TIC to a condominium, as projected in the Keyser Marston
17 Associates 2011 Nexus Analysis, the Controller’s report notes that because State law does
18 not otherwise allow rent limitations on condominiums after the subdivider sells them, future
19 owners of these converted condominiums after the rental limitation period terminates “have
20 the opportunity for greater rental income than owners of TIC units, the vast majority of which
21 are subject to rent control.”

22 (3) Due to the present backlog of existing applications, the Office of the Controller
23 estimates that owners of 1,730 of the units not selected in the 2013 lottery would pay the
24 impact feecondominium conversion charge and avail themselves of the seven-year
25 eExpedited eConversion program. The program also permits TICs that did not enter the 2012

1 and 2013 lottery to convert, which could result in more than 1,730 dwelling units taking
2 advantage of the eExpedited eConversion program. The number of conversions is therefore
3 anticipated to be well in excess of the 200 unit per year allotment in the existing lottery. The
4 Ordinance balances the number of units converted under this program in a relatively short
5 period of time by suspending the lottery until the City's affordable housing production replaces
6 the number of units converted under the eExpedited eConversion program. The maximum
7 number of years of suspension of the lottery will be the number of converted units divided by
8 200. Therefore, under the suspension, there will be no net loss of the number of converted
9 units over time as compared to the existing lottery. Conversions of apartments to
10 condominiums also results in the eviction of existing tenants in the converted buildings
11 because many tenants cannot afford to purchase their units. A large number of conversions
12 under the eExpedited eConversion program would magnify this impact and result in a large
13 number of tenants evicted into a very expensive rental housing market. The Office of the
14 Controller estimates that tenants of these converted properties would likely spend between
15 \$0.8 and \$1.1 million annually in higher rent alone due to displacement and/or rent decontrol.
16 Therefore, the Ordinance balances this impact on existing tenants and the effects of tenant
17 displacement on the City in general by requiring that applicants for the Expedited Conversion
18 program offer existing tenants a lifetime lease. The abovementioned Controller's report is on
19 file with the Clerk of the Board of Supervisors in File No. 120669 and is incorporated herein by
20 reference.

21 (3)(4) In addition, this legislation attempts to integrate this process with the adoption of
22 additional controls on future conversions. This legislation does not intend to affect in any way
23 the conversion of 100% owner-occupied two-unit buildings in accordance with the terms of
24 Subdivision Code Section 1359.

1 (d) As set forth in the Housing Element of the General Plan, in particular Objective 3, it
2 is the City's policy to preserve the existing supply of rent controlled housing and to increase
3 the production of new affordable rental units. Policy 3.1 states that is the City's policy to
4 "[p]reserve rental units, especially rent controlled units, to meet the City's affordable housing
5 needs." Policy 4.4 states it is the City's policy to "[e]ncourage sufficient and suitable rental
6 housing opportunities, emphasizing permanently affordable rental units wherever possible."
7 And, Policy 9.2 provides that it is city policy to "[c]ontinue prioritization of preservation of
8 existing affordable housing as the most effective means of providing affordable housing."
9 Therefore, the conversion of rental housing into condominiums, without replacement, results
10 in the loss of existing rent controlled housing contrary to public policy.

11 (e) In 2012, the voters of the City of San Francisco approved Proposition C that
12 proposed in part to fund and produce 930,000 affordable rental housing units over thirty years,
13 establishing an annual baseline production of approximately 300 net new affordable housing
14 units. The Board determines that this legislation is compatible with the goals of Proposition C
15 and resumption of the condominium conversion lottery is properly benchmarked in
16 relationship to new affordable housing production as contemplated in Proposition C. Further,
17 the Board finds that Proposition C's limitations on new affordable housing fees were intended
18 to apply to fees on new residential construction projects and not to the condominium
19 conversion charges set forth in this Ordinance which would be imposed only on existing
20 residential buildings that obtain a condominium subdivision and involve no net increase in new
21 housing units.

22 (f) It is the further intent of this legislation to suspend future conversions of rental
23 housing pending the one for one replacement of units converted through the eExpedited
24 eConversion program beyond the City's net new annual baseline production and to provide
25 additional protections to tenants in buildings to be converted as specified above.

1 (g) The Board finds that the rate of TIC creation and demand for condominium
2 conversions to date has far exceeded the rate of allowable conversions under existing law.
3 The Board also finds that the unsustainable growth of the TIC form of ownership poses
4 challenges and adverse consequences for which many consumers are unprepared and that
5 those challenges are greater for larger building sizes. However, increasing the number of
6 allowable conversions would impose a burden on the City's capacity to develop sufficient
7 replacement rental housing units and to assist displaced tenants. Therefore, it is the intent of
8 this legislation to re-establish the condominium lottery conversion process on a more
9 sustainable basis following the restart of the lottery and to encourage long-term ownership in
10 smaller buildings.

11 Section 2. The San Francisco Subdivision Code is hereby amended by adding
12 Sections 1396.4 and 1396.5, to read as follows:

13 SEC. 1396.4. CONDOMINIUM CONVERSION IMPACT FEE AND EXPEDITED
14 CONVERSION PROGRAM.

15 (a) Findings. The findings of Planning Code Section 415.1 concerning the City's inclusionary
16 affordable housing program are incorporated herein by reference and support the basis for charging
17 the fee set forth herein as it relates to the conversion of dwelling units into condominiums.

18 (b) Any building that: (1) participated in the 2013 or 2012 condominium conversion
19 lottery, but was not selected for conversion or (2) could have participated in the 2013
20 condominium conversion lottery, but elected not to do so, may bypass be exempted from the
21 annual lottery provisions of Section 1396 (the annual lottery conversion limitation) if the building
22 owners for said building comply with Section 1396.3(g)(1) and pay the condominium conversion
23 impact fee subject to the all the requirements of this Section 1396.4. In addition Notwithstanding
24 the foregoing, no property or applicant subject to any of the prohibition on conversions set
25 forth in Section 1396.2(e), in particular a property with the eviction(s) set forth in Section

1 1396.2(b), is eligible for said bypass the eExpedited eConversion processprogram under this
2 Section 1396.4. Eligible buildings as set forth in this Section (b) may exercise their option to
3 participate in this fee program according to the following requirements:

4 ~~(c) Eligible buildings as set forth in Subsection (b) may exercise their option to~~
5 ~~participate in this fee program according to the following requirements:~~

6 ~~—— (1) The applicant(s) for the subject building shall pay the fee specified in~~
7 ~~Subsection (e) no later than January 24, 2014 for the entire building.~~

8 ~~—— (2) No later than the last business day before July 25, 2014:~~

9 ~~—— (i) DPW shall determined that the applicant's condominium conversion~~
10 ~~subdivision application is complete, or~~

11 ~~—— (ii) The application is deemed complete by operation of law.~~

12 ~~—— (3) The applicant shall obtain final and effective tentative approval of the~~
13 ~~condominium subdivision or parcel map no later than December 31, 2014.~~

14 ~~—— (4) Any map application subject to a required public hearing on the subdivision~~
15 ~~or a subdivision appeal shall have the time limit set forth in Subsection (c)(3) suspended until~~
16 ~~March 13, 2015.~~

17 ~~—— (5) The Director of the Department of Public Works is authorized to waive the~~
18 ~~time limit set forth in Subsection (c)(3) as it applies to a particular building due to extenuating~~
19 ~~or unique circumstances. Such waiver may be granted only after a public hearing and in no~~
20 ~~case shall the time limit extend beyond July 24, 2015.~~

21 (1) Any building that participated in but was not selected for the 2012 or 2013
22 condominium conversion lottery consisting of (a) four units or less in which one unit has been
23 continuously occupied continuously by one of the applicant owners of record for no less than
24 five years prior to April 15, 2013, or (b) buildings consisting of five or six units in which 50
25 percent or more of the units have been continuously occupied continuously by the applicant

1 owners of record for no less than five years as of April 15, 2013, is eligible for conversion
2 under this Subsection. The applicant(s) for the subject building seeking to convert under this
3 Subsection shall pay the fee specified in Subsection (e) no later than January 24 April 14,
4 2014 for the entire building along with additional information as the Department may require
5 including certification of continued eligibility; however, the deadline for an applicant to pay the
6 fee may be extended pursuant to (j)(3) of this Section.

7 (2) Any building that participated in but was not selected for the 2012 or 2013
8 condominium conversion lottery consisting of (a) four units or less in which one unit has been
9 continuously occupied continuously by one of the applicant owners of record for no less than
10 three years prior to April 15, 2014, or (b) buildings consisting of five or six units in which 50
11 percent or more of the units have been continuously occupied continuously by the applicant
12 owners of record for no less than three years as of April 15, 2014, is eligible for conversion
13 under this Subsection. The applicant(s) for the subject building may apply for conversion
14 under this Subsection on or after April 15, 2014 and shall pay the fee specified in Subsection
15 (e) no later than January 23, 2015 along with additional information as the Department may
16 require including certification of continued eligibility; however, the deadline for an applicant to
17 pay the fee may be extended pursuant to (j)(3) of this Section.

18 (3) For Additionally Qualified Buildings consisting of (a) four units or less in which one
19 unit has been continuously occupied continuously by one of the applicant owners of record for
20 no less than six years as of April 15, 2015 or (b) buildings consisting of five or six units in
21 which 50 percent or more of the units have been continuously occupied continuously by the
22 applicant owners of record for no less than six years as of April 15, 2015, the applicant(s) for
23 the subject building may apply for conversion under this Subsection on or after April 15, 2015
24 and shall pay the fee specified in Subsection (e) no later than January 22, 2016 along with
25

1 additional information as the Department may require including certification of continued
2 eligibility.

3 (4) For Additionally Qualified Buildings consisting of (a) four units or less in which one
4 unit has been continuously occupied continuously by one of the applicant owners of record for
5 no less than six years as of April 15, 2016, or (b) buildings consisting of five or six units in
6 which 50 percent or more of the units have been continuously occupied continuously by the
7 applicant owners of record for no less than six years as of April 15, 2016, the applicant(s) for
8 the subject building may apply for conversion under this Subsection on or after April 15, 2016
9 and shall pay the fee specified in Subsection (e) no later than January 20, 2017 along with
10 additional information as the Department may require including certification of continued
11 eligibility.

12 (5) For Additionally Qualified Buildings consisting of (a) four units or less in which one
13 unit has been continuously occupied continuously by one of the applicant owners of record for
14 no less than six years as of April 15, 2017, or (b) buildings consisting of five or six units in
15 which 50 percent or more of the units have been continuously occupied continuously by the
16 applicant owners of record for no less than six years as of April 15, 2017, the applicant(s) for
17 the subject building may apply for conversion under this Subsection on or after April 15, 2017
18 and shall pay the fee specified in Subsection (e) no later than January 19, 2018 along with
19 additional information as the Department may require including certification of continued
20 eligibility.

21 (6) For Additionally Qualified Buildings consisting of (a) four units or less in which one
22 unit has been continuously occupied continuously by one of the applicant owners of record for
23 no less than six years prior to April 15, 2018, or (b) buildings consisting of five or six units in
24 which 50 percent or more of the units have been continuously occupied continuously by the
25 applicant owners of record for no less than six years as of April 15, 2018, the applicant(s) for

1 the subject building may apply for conversion under this Subsection on or after April 15, 2018
2 and shall pay the fee specified in Subsection (e) no later than January 25, 2019 along with
3 additional information as the Department may require including certification of continued
4 eligibility.

5 (7) For Additionally Qualified Buildings consisting of (a) four units or less in which one
6 unit has been occupied continuously by one owner of record for no less than six years prior to
7 April 15, 2019, or (b) buildings consisting of five or six units in which 50 percent or more of the
8 units have been occupied continuously by owners of record for no less than six years as of
9 April 15, 2019, the applicant(s) for the subject building may apply for conversion under this
10 Subsection on or after April 15, 2019 and shall pay the fee specified in Subsection (e) no later
11 than January 24, 2020 along with additional information as the Department may require
12 including certification of continued eligibility. An Additionally Qualified Building subject to
13 Subsection 9(A) shall be eligible to convert pursuant to this Subsection as long as there is
14 fully executed written agreement in which the owners each have an exclusive right of
15 occupancy to individual units in the building to the exclusion of the owners of the other units
16 and 50 percent or more of the units have been occupied continuously by owners of record for
17 no less than six years as of January 24, 2020.

18 (8) For applications for conversion pursuant to Subsections (3)-(7) only, a unit that is
19 "occupied continuously" shall be defined as a unit occupied continuously by an owner of
20 record for the six year period without an interruption of occupancy and so long as the
21 applicant owner(s) occupied the subject unit as his/her principal place of residence for no less
22 than one year prior to the time of application. Notwithstanding the occupancy requirements
23 set forth above, each building may have one unit where there is an interruption in occupancy
24 for no more than a three month period that is incident to the sale or transfer to a subsequent
25 owner of record who occupied the same unit. For any unit with an interruption of occupancy,

1 the applicant shall provide evidence to establish to the satisfaction of the Department that the
2 period did not exceed three months.

3 (9) An "Additionally Qualified Building" within the meaning of this Section is defined as
4 a building in which the initially eligible applicant owners of record have a fully executed written
5 agreement as of April 15, 2013 in which the owners each have an exclusive right of
6 occupancy to individual units in the building to the exclusion of the owners of the other units;
7 provided, however, that said agreement can be amended to include new applicant owner(s) of
8 record as long as the new owner(s) satisfy the requirements of Subsection (8) above. In
9 addition to the requirements listed in this Subsection (8), an Additionally Qualified Building
10 also includes a five or six unit building that: (A) on April 15, 2013, had 50 percent or more of
11 the units in escrow for sale as a tenancy-in-common where each buyer shall have an
12 exclusive right of occupancy to an individual unit in the building to the exclusion of the owners
13 of other units or (B) is subject to the requirements of Section 1396.2(f) and 50 percent or more
14 of the units have been occupied continuously by owners of record for no less than ten years
15 prior to the date of application as set forth in Subsections (3)-(7).

16 (6) (7)-(8)(10) The In addition to all other provisions of this Section, the applicant(s)
17 must meet the following requirements applicable to Subdivision Code Article 9, Conversions:
18 Sections 1381, 1382, 1383, 1386, 1387, 1388, 1389, 1390, 1391(a) and (b), 1392, 1393, 1394,
19 and 1395. In additionAlso, the applicant(s) must certify that to the extent any tenant vacates
20 his or her unit after March 31, 2013 and before recordation of the final parcel or subdivision
21 map, such tenant did so voluntarily or if an eviction or eviction notice occurred it was not
22 pursuant to Administrative Code Sections 37.9(a)(8)-(14). If an eviction has taken placed
23 under 37.9(a)(11) or 37.9(a)(14) then the applicant(s) shall certify that the original tenant
24 reoccupied the unit after the temporary eviction.

1 (11) If the Department finds that a violation of this Section occurred prior to recordation
2 of the final map or final parcel map, the Department shall disapprove the application or subject
3 map. If the Department finds that a violation of this Section occurred after recordation of the
4 final map or parcel map, the Department shall take such actions as are available and within its
5 authority to address the violation.

6 (c) Decisions and Hearing on the Application.

7 (1) The applicant shall obtain a final and effective tentative map or tentative parcel
8 map approval for the condominium subdivision or parcel map within one (1) year of paying the
9 fee specified in Subsection (e).

10 (2) No less than twenty (20) days prior to the Department's proposed decision on a
11 tentative map or tentative parcel map, the Department shall publish the addresses of building
12 being considered for approval and post such information on its website. During this time, any
13 interested party may file a written objection to an application and submit information to
14 DPWthe Department contesting the eligibility of a building. In addition, the Department may
15 elect to hold a public hearing on said tentative map or tentative parcel map to consider the
16 information presented by the public, other City department, or an applicant. If the Department
17 elects to hold such a hearing it shall post notice of such hearing and provide written notice to
18 the applicant, all tenants of such building, any member of the public who submitted
19 information to the Department, and any interested party who has requested such notice. In
20 the event that an objection to the conversion application is filed in accordance with this
21 Subsection, and based upon all the facts available to the Department, the Department shall
22 approve, conditionally approve, or disapprove an application and state the reasons in support
23 of that decision.

1 (3) Any map application subject to a Departmental public hearing on the subdivision or
2 a subdivision appeal shall have the time limit set forth in this Subsection (c)(1) extended for
3 another six (6) months.

4 (4) The Director of the Department of Public Works is authorized to waive the time
5 limits set forth in this Subsection (c)(1) as it applies to a particular building due to extenuating
6 or unique circumstances. Such waiver may be granted only after a public hearing and in no
7 case shall the time limit extend beyond two (2) years after submission of the application.

8 (d) Should the subdivision application be denied or be rejected as untimely in accordance with
9 the dates specified above, or the tentative subdivision map or tentative parcel map disapproved, DPW
10 the City shall refund the entirety of the applicant's fee specified in Subsection (e).

11 (e) The fee amount is \$20,000.00 per unit for all buildings that participated in the lottery for
12 the first time in 2013 or seek to convert under Subsection (b)(1)-(6)(7). Said fee shall be
13 adjusted annually in accordance with the terms of Section 1315(f). Said fee is reduced for each
14 year the building has participated in the condominium conversion lottery up to and including the 2013
15 lottery in accordance with the following formula:

16 (1) 2 years of participation, 20% fee reduction per unit;

17 (2) 3 years of participation, 40% fee reduction per unit;

18 (3) 4 years of participation, 60% fee reduction per unit; and

19 (4) 5 or more years of participation, 80% fee reduction per unit.

20 (f) For purposes of Section (e), a building's owner(s) shall get credit only for those years that
21 it he or she participated in the lottery even though such building could have qualified for and
22 participated in other condominium conversion lotteries.

23 (g) Life Time Lease for Non-purchasing Tenants.

24 (1) No subdivider or subsequent condominium unit owner shall refuse to renew a lease
25 or extend a rental agreement to any Any application for conversion under this Section shall

1 include a certification under penalty of perjury by the applicants that all any non-purchasing
2 tenant(s) in the building have been offered has been given a written offer to enter into a life
3 time lease in the form and with the provisions published and prescribed by DPW the
4 Department in consultation with the Rent Board. Such written offer for a life time lease shall
5 be executed by the owners of the building(s) and recorded prior to at the time of Final Map or
6 Parcel Map approval. Any extended Any life time leases or rental agreements made pursuant
7 hereto shall expire only upon the death or demise of the last such life-tenant residing in the unit or
8 the last surviving member of the life-tenant's household, provided such surviving member is related to
9 the life- tenant by blood, marriage, or domestic partnership, and is either disabled, catastrophically
10 ill, or aged 62 or older at the time of death or demise of any such life-tenant, or at such time as the life-
11 tenant(s) in the unit voluntarily vacates the unit after giving due notice of such intent to vacate.

12 (2) (A) Each lease shall contain a provision allowing the tenant to terminate the lease and
13 vacate the unit upon 30 days' notice. Rent and a provision that rent charged during the term of any
14 extended the lease or rental agreement pursuant to the provisions of this Section shall not
15 exceed the rent charged at the time of filing of the application for conversion, plus any increases
16 proportionate to the increases in the residential rent component of the "Bay Area Cost of Living Index,
17 U.S. Dept. of Labor," provided that the rental increase provisions of this Section shall be operative only
18 in the absence of other applicable rent increase or arbitration laws. This Section

19 (B) The lease also shall state that it shall not alter or abridge the rights or
20 obligations of the parties in performance of their covenants, including but not limited to the provision
21 of services, payment of rent or the obligations imposed by Sections 1941, 1941.1, and 1941.2, 1941.3,
22 and 1941.4 of the California Civil Code. There and that there shall be no decrease in dwelling unit
23 maintenance or other services historically provided to such units and such life-tenants. A binding and
24 recorded agreement The provision of a lifetime lease pursuant to this Subsection shall be a
25 condition imposed on each tentative parcel or tentative subdivision map subject to this

1 Subsection 1396.4(g). ~~Binding and recorded agreements between the tenant(s) and the~~
2 ~~property owner(s) and between the City and the property owner(s) concerning this~~
3 ~~requirement shall be a tentative map condition imposed on each parcel or subdivision map~~
4 ~~subject to this Subsection 1396.4(g).~~

5 (C) The lease shall also include the following language:

6 Tenant agrees that this Lease shall be subject and subordinate at all times to (i) all
7 ground leases or underlying leases that may now exist or hereafter be executed affecting the
8 Real Property or any portion thereof; (ii) the lien of any mortgage, deed of trust, assignment of
9 rents and leases or other security instrument (and any advances thereunder) that may now
10 exist or hereafter be executed in any amount for which the Real Property or any portion
11 thereof, any ground leases or underlying leases or Landlord's interest or estate therein, is
12 specified as security; and (iii) all modifications, renewals, supplements, consolidations and
13 replacements thereof, provided in all cases the mortgagees or beneficiaries named in
14 mortgages or deeds of trust hereafter executed or the assignee of any assignment of rents
15 and leases hereafter executed to recognize the interest and not disturb the possession, use
16 and enjoyment of Tenant under this Lease, and, in the event of foreclosure or default, the
17 lease will continue in full force and effect by operation of San Francisco Administrative Code
18 Chapter 37, Section 37.9D, and the conditions imposed on each parcel or subdivision map
19 pursuant to Section 1396.4(g), as long as Tenant is not in default under the terms and
20 conditions of this Lease. Tenant agrees to execute and deliver, upon demand by Landlord and
21 in the form requested by Landlord, any additional reasonable documents evidencing the
22 priority or subordination of this Lease with respect to any such ground leases, underlying
23 leases, mortgages, deeds of trust, assignment of rents and leases or other security
24 instruments. Subject to the foregoing, Tenant agrees that Tenant shall be bound by, and
25

1 required to comply with, the provisions of any assignment of rents and leases with respect to
2 the Building.

3 (3) The Department shall impose the following tentative map conditions on each parcel
4 and subdivision map subject to this Subsection 1396.4(g) and require that the conditions be
5 satisfied prior to Final Subdivision Map or Parcel Map approval: (A) the property owner(s) of
6 the building provide a written offer for a life time lease pursuant to this Subsection to the
7 tenant(s) in the building and record such offer against the building's title, (B) at the time the
8 tenant(s) accepts the life time lease offer, and even if such acceptance occurs after map
9 approval, a binding agreement between the tenant(s) and the property owner(s) shall be
10 executed and recorded against the property's title, and (C) a binding agreement between the
11 City and the property owner(s) concerning the requirements of this Subsection be recorded
12 against the property's title. For purposes of this Subsection, the Board of Supervisors
13 delegates authority to the DPW Director, in consultation with the Mayor's Office of Housing, to
14 enter in said agreement on behalf of the City and County of San Francisco.

15 (2)(4) If the owner(s) of a building subject to the life time lease provisions of this
16 Section 1396.4(g) enters into any contract or option to sell or transfer any unit that would be
17 subject to the lifetime lease requirements or any interest in any unit in the building that would
18 be subject to the lifetime lease requirements at any time between the initial application and
19 recording of the final subdivision map or parcel map, said contract or option shall be subject to
20 the following conditions: (a) the contract or option shall include written notice that the unit shall
21 be subject to the life time lease requirements of Subdivision Code Section 1396.4(g), (b) prior
22 to final execution of any such contract or option, the owner(s) shall record a notice of
23 restrictions against the property that specifically identifies the unit potentially subject to the life
24 time lease requirements and specifies the requirements of the life time lease as set forth in
25 Section 1396.4(g)(1), and (c) the recorded notice of restrictions shall be included as a note on

1 the final subdivision map or parcel map. Prior to approval of a final subdivision map or parcel
2 map, the applicant(s) shall certify under penalty of perjury to the Department that he, she, or
3 they have complied with the terms of this Subsection as it applies to a building. Failure to
4 provide this certification from every current owner of a building shall result in disapproval of
5 the map. The content of the notices and certifications required by this Subsection shall
6 comply with the instructions and procedures developed by the Department.

7 *(h) In recognition of the rental requirements of Section (g), the fee for each unit in which a*
8 *non-purchasing tenant resides at the time specified in Section (g) who is offered a life time lease*
9 *and is unrelated by blood, marriage, or domestic partnership to any owner of the building shall*
10 *be refunded to the subdivider under the following formula:*

11 *(1) One unit, 10% fee reduction for such unit;*

12 *(2) Two units, 20% fee reduction for each unit;*

13 *(3) Three units, 30% fee reduction for each unit.*

14 *(i) Upon confirmation of compliance with the rental requirement, DPW or the City*
15 *department in possession of the fee revenue shall refund the amount specified in Section (h) to the*
16 *subdivider and have all remaining fee revenues transferred, in the following percentage allocations:*
17 *25% to the Citywide Affordable Housing Fund Mayor's Office Home Ownership Assistance*
18 *Loan Fund City's Housing Stabilization Mayor's Office of Housing's program for small site*
19 *acquisition to purchase market rate housing and convert it to affordable housing and 75% to*
20 *the Citywide Affordable Housing Fund for the purpose of creating or preserving expanding*
21 *affordable housing opportunities for affordable to low or moderate income households in San*
22 *Francisco, including, but not limited to, expanding public housing opportunities.*

23 *(j) Waiver or reduction of fee based on absence of reasonable relationship or deferred*
24 *payment based upon limited means.*

1 (1) A project applicant of any project subject to the requirements in this Section may appeal to
2 the Board of Supervisors for a reduction, adjustment, or waiver of the requirements based upon the
3 absence of any reasonable relationship or nexus between the impact of development and the amount of
4 the fee charged or for the reasons set forth in Subsection (2) below, a project applicant may request a
5 waiver from the Board of Supervisors.

6 (2) Any appeal of ~~waiver~~ requests under this clause shall be made in writing and filed with the
7 Clerk of the Board no later than 15 days after the date the sponsor is required to pay and has paid to
8 the Treasurer the fee as required in this Section. The appeal shall set forth in detail the factual and
9 legal basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider
10 the appeal at the hearing within 60 days after the filing of the appeal. The appellant shall bear the
11 burden of presenting substantial evidence to support the appeal, including comparable technical
12 information to support appellant's position. If a reduction, adjustment, or waiver is granted, any
13 change of use or scope of the project shall invalidate the waiver, adjustment or reduction of the fee. If
14 the Board grants a reduction, adjustment or waiver, the Clerk of the Board shall promptly transmit the
15 nature and extent of the reduction, adjustment or waiver to the Treasurer and Department of Public
16 Works.

17 (3) A project applicant may apply to the Department of Public Works for a deferral of
18 payment of the fee described in Subsection (e) for the period that the Department completes
19 its review and until the application for expedited conversion is approved, provided that the
20 applicant satisfies each of the following requirements: (i) the applicant resided in his or her
21 unit in the subject property as his or her principle place of residence for not less than three
22 years and (ii) that for the twelve months prior to the application, the applicant resided in his or
23 her unit in the subject property as his or her principle place of residence and the applicant's
24 household income was less than 120% of median income of the City and County of San
25 Francisco as determined by the Mayor's office of Housing.

1 ~~(k) Any building that participates in the fee program set forth herein shall automatically~~
2 ~~be ineligible to participate in the 2014 condominium conversion lottery. DPW The City shall~~
3 ~~refund to the applicant any fees paid to participate in the 2014 lottery and shall remove any~~
4 ~~lottery tickets associated with the subject building from the lottery drawing.~~

5 ~~(l) Buildings that convert pursuant to this Section shall have no effect on the terms and~~
6 ~~conditions of Section 1341A, 1385A, or 1396 of this Code.~~

7 **SEC. 1396.5. SUSPENSION OF THE LOTTERY PENDING PRODUCTION OF**
8 **REPLACEMENT UNITS FOR EXPEDITED CONVERSION UNITS.**

9 (a) Within twelve months after issuing tentative or tentative parcel map approval for the
10 last conversion under Section 1396.4 or December 29, 2023, whichever is earlier, the
11 Department shall publish a report stating the total number of units converted under the
12 Expedited Conversion program and every twelve months thereafter until the Expedited
13 Conversion program is completed.

14 (b) No later than April 15 of each year until the termination of the suspension period,
15 the Mayor's Office of Housing shall publish a report stating the total number of permanently
16 affordable rental housing produced in San Francisco and the "Conversion Replacement Units"
17 produced in the previous calendar year and a cumulative total of such housing produced in
18 preceding years during the tracking period. For purposes of this Subsection, the Mayor's
19 Office of Housing shall have the authority to determine what type and form of housing
20 constitutes permanently affordable rental housing that has been produced.

21 (c) The Department shall not accept an application for the conversion of residential
22 units under Section 1396 nor conduct a lottery under this Article prior to January 1, 2024.
23 Thereafter, the lottery shall resume upon the earlier of the following: (1) until the first February
24 following the Mayor's Office of Housing report pursuant to Subsection (b) showing that the
25 total number of Conversion Replacement Units produced in the City of San Francisco

1 exceeds the total number of units converted as identified in the Department's report
2 prepared pursuant to Subsection (a); under Section 1396.4(b)(1)-(6) and in no event shall it
3 conduct a lottery prior to January 1, 2024; provided however, that the total period of
4 suspension of the lottery shall not exceed (2) completion of the "Maximum Suspension
5 Period" as defined below.

6 (d) "Conversion Replacement Units" in any year shall be determined by subtracting
7 300 from the total number of permanently affordable rental units that the City produced in that
8 year starting on January 1, 2014.

9 (e) The "Maximum Suspension Period" shall be the number of years calculated by
10 dividing the total number of units approved for conversion under Section 1396.4(b)(1)-(6)(7)
11 (the Expedited Conversion program) divided by 200 and rounded to the nearest whole
12 number with the year 2014 as the starting point. For example, if 2400 units have been
13 converted under Section 1396.4(b)(1)-(6)(7), then the maximum suspension period would be
14 12 years and run until 2026 expire on December 31, 2025.

15 Section 3. The San Francisco Subdivision Code is hereby amended by amending
16 Section 1396, to read as follows:

17 **SEC. 1396. ANNUAL CONVERSION LIMITATION.**

18 (a) This Section governing annual limitation shall apply only to conversation of
19 residential units. This Section also is subject to the limitations established by Section
20 1396.5's suspension of the lottery.

21 (b) Applications for conversion of residential units, whether vacant or occupied, shall
22 not be accepted by the Department of Public Works, except that a maximum of 200 units as
23 selected yearly by lottery by the Department of Public Works from all eligible applicants, may
24 be approved for conversion per year for the following categories of buildings:

1 (a) (1) Buildings consisting of four units or less in which one at least three of the units
2 has have been occupied continuously by one of the applicant owners of record as their
3 principle place of residence for three years prior to the date of registration for the lottery as
4 selected by the Director;

5 (2) Buildings consisting of three units in which at least two of the units have been
6 occupied continuously by the applicant owners of record as their principle place of residence
7 for three years prior to the date of registration for the lottery as selected by the Director;

8 (3) Buildings consisting of two units in which at least one unit has been occupied
9 continuously by the applicant owner of record as his or her principle place of residence for
10 three years prior to the date of registration for the lottery as selected by the Director; or

11 ~~(b) Buildings consisting of six units or less in which 50 percent or more of the units~~
12 ~~have been occupied continuously by the applicant owners of record for three years prior to the~~
13 ~~date of registration for the lottery as selected by the Director; or~~

14 ~~(c) (4) Buildings consisting of five or six units that were subject to the requirements of~~
15 ~~Section 1396.2(f) on or before April 15, 2013 where (A) no further evictions as set forth in~~
16 ~~Section 1396.2 have occurred in the building after April 15, 2013, (B) the building and all~~
17 ~~applicants first satisfied all the requirements for conversion under Section 1396.2(f) after~~
18 ~~January 24, 2020 and before resumption of the lottery under in accordance with the terms of~~
19 ~~Section 1396.5; and (C) 50 percent or more of the units have been occupied continuously by~~
20 ~~owners of record as their principle place of residence for ten years prior to the date of~~
21 ~~registration for the lottery as selected by the Director. Applicants for such buildings must~~
22 ~~apply for the lottery within five years of the resumption of the lottery under Section 1396.5(c)~~
23 ~~and remain eligible until selected;~~

24 (5) If the Expedited Conversion program under Section 1396.4 has been suspended
25 until 2024 as a result of a successful lawsuit against the City and County of San Francisco

1 challenging Section 1396.4(g) or 1396.5: (A) buildings consisting of five or six units that
2 participated in but were not selected for the 2012 or 2013 condominium conversion lottery in
3 which 50 percent or more of the units have been occupied continuously by the applicant
4 owners of record for no less than six years prior to the date of registration for the lottery as
5 selected by the Director or (B) buildings consisting of five or six units in which: (i) 50 percent
6 or more of the units have been occupied continuously by the applicant owners of record for no
7 less than six years prior to the date of registration for the lottery as selected by the Director
8 and (ii) the eligible applicant owners of record have a fully executed written agreement as of
9 April 15, 2013 in which the owners each have an exclusive right of occupancy to individual
10 units in the building to the exclusion of the owners of the other units. Applicants for buildings
11 identified in this Subsection must first apply for the lottery within five years of the resumption
12 of the lottery under Section 1396.5(c) and remain eligible until selected; or

13 ~~(5)~~(6) Community apartments as defined in Section 1308 of this Code, which, on or
14 before December 31, 1982, met the criteria for community apartments in Section 1308 of this
15 Code and which were approved as a subdivision by the Department of Public Works on or
16 before December 31, 1982, and where 75 percent of the units have been occupied
17 continuously by the applicant owners of record for three years prior to the date of registration
18 for the lottery as selected by the Director.

19 (c) The conversion of a stock cooperative as defined in Section 1308 of this Code to
20 condominiums shall be exempt from the annual limitation imposed on the number of
21 conversions in this Section and from the requirement to be selected by lottery where 75
22 percent of the units have been occupied for the lottery as selected by the Director.

23 (d) No application for conversion of a residential building submitted by a registrant
24 shall be approved by the Department of Public Works to fill the unused portion of the 200-unit
25 annual limitation for the previous year.

1 ~~(e)(f)~~ (1) Any applicant application for a condominium conversion submitted after being
2 selected in the lottery must meet the following requirements applicable to Subdivision Code
3 Article 9, Conversions; Sections 1381, 1382, 1383, 1386, 1387, 1388, 1389, 1390, 1391(a)
4 and (b), 1392, 1393, 1394, and 1395.

5 (2) Any building subject to Section 1396.2 shall have all applicant(s) satisfy all the
6 requirements for conversion under Section 1396.2(f) in order be eligible to convert pursuant to
7 this Section 1396; provided, however, that any building subject to the prohibition on
8 conversion under Section 1396.2, in particular a property with the eviction(s) set forth in
9 Section 1396.2(b), is ineligible for conversion.

10 (3)(A) In addition, the applicant(s) must shall certify that to the extent any tenant
11 vacated his or her unit after March 31, 2013 within the seven years prior to the date of
12 selection in registration for the lottery as selected by the Director and before recordation of the
13 final parcel or subdivision map, such tenant did so voluntarily or if an eviction or eviction
14 notice occurred it was not pursuant to Administrative Code Sections 37.9(a)(8)-(14) unless
15 such eviction or eviction notice complied with the requirements of Subsections (B)-(D) below.

16 (B) If an eviction has taken placed the evicting owner(s) recovered possession
17 of the unit under Administrative Code Sections 37.9(a)(11) or 37.9(a)(14), then the
18 applicant(s) shall certify that the original tenant reoccupied or was given an opportunity to
19 reoccupy the unit after the temporary eviction.

20 (C) If the evicting owner(s) recovered possession of the unit under
21 Administrative Code Section 37.9(a)(10), then the applicant(s) shall certify that the
22 Department of Building Inspection required the unit be demolished or permanently removed
23 from housing use pursuant to a Notice of Violation or Emergency Order or similar notice,
24 order, or act; all the necessary permits for demolition or removal were obtained; that the
25 evicting owner(s) complied in full with Administrative Code Section 37.9(a)(10) and (c); and

1 that an additional unit or replacement unit was not constructed in the building after the
2 demolition or removal of the unit previously occupied by the evicted tenant.

3 (D) If the evicting owner(s) recovered possession of a unit under Administrative
4 Code Section 37.9(a)(8), then the applicants shall certify that: (i) only one unit in the building
5 was the subject of such eviction during the seven year period, (ii) any surviving owner or
6 relative named as the intended resident of the unit in the Section 37.9(a)(8) eviction notice
7 also is presently an owner applying for the conversion of the same unit, and (iii) the subject
8 applicant owner has occupied the unit continuously as his or her principle residence for three
9 years prior to the date of registration for the lottery as selected by the Director.

10 (f) The Department shall review all available records, including eviction notices and
11 records maintained by the Rent Board for compliance with Subsection (e). If the Department
12 finds that a violation of Subsection (e) occurred prior to recordation of the final map or final
13 parcel map, the Department shall disapprove the application or subject map. If the
14 Department finds that a violation of Subsection (e) occurred after recordation of the final map
15 or parcel map, the Department shall take such actions as are available and within its authority
16 to address the violation.

17 Section 4. Uncodified. Notwithstanding the condominium conversion lottery selection
18 provisions of Subdivision Code Section 1396 and 1396.3 or the other terms of this legislation,
19 the most senior class of buildings participating but not being selected in the 2013
20 condominium lottery may apply for a condominium conversion subdivision on or after January
21 1, 2014 but before December 31, 2014 subject to the following: (1) the buildings and
22 applicants shall satisfy all of the eligibility requirements necessary to participate in the lottery
23 as set forth in Sections 1396 and 1396.3 in effect immediately prior to the effective date of this
24 legislation and (2) the applicants shall satisfy all other applicable terms of Subdivision Code
25 Article 9 (Conversions). Any buildings that apply under the process set forth in this uncodified

1 Section are explicitly exempt from the requirements of Sections 1396.4, 1396.5, and 1396 as
2 set forth in this legislation. Any building eligible to convert to condominiums: (a) under this
3 Section 4, (b) after being selected for conversion in the 2013 condominium conversion lottery,
4 or (c) that satisfies the requirements of Section 1359, is excluded from any of the terms of
5 Section 7 below, specifically any limitation or prohibition of any kind concerning application
6 submission, review, and approval for a parcel or subdivision map.

7 Section 5. Effective Date. This ordinance shall become effective 30 days from the
8 date of passage.

9 Section 456. This section is uncoded. In enacting this Ordinance, the Board intends
10 to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
11 punctuation, charts, diagrams, or any other constituent part of the Subdivision Code that are
12 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
13 Board amendment deletions in accordance with the "Note" that appears under the official title
14 of the legislation.

15 Section 67. Suspension of this Ordinance~~Effect of Litigation.~~ (a) In the event that there
16 is a lawsuit against the City and County of San Francisco filed in any court challenging any
17 part of this legislation or the validity of any lifetime lease entered into pursuant to this
18 legislation Subsection 1396.4(g) or Section 1396.5 or any obligation on the part of any
19 property owner under Section 1396.4(g), then upon the service of such lawsuit upon the City
20 and County of San Francisco, the Expedited Conversion program described in Section 1396.4
21 will be suspended as set forth below unless and until either (1) there is a final judgment in the
22 lawsuit in all courts and the validity of this legislation in its entirety the challenged provision(s)
23 specified above is upheld or (2) the suspension of the lottery through January 1, 2024 as
24 mandated by Section 1396.5 is completed.

1 (b) Legal Challenge to Section 1396.5 During any such suspension of the Expedited
2 Conversion program pursuant to this Subsection based on a legal challenge to Section
3 1396.5, any the Department, upon service of the lawsuit, shall not accept or approve any
4 application for conversion under the program. After 180 days following service of the lawsuit,
5 the Department shall not issue any tentative parcel map or tentative map approval for
6 conversion and shall deny any application that has not obtained such approval. If an owner(s)
7 obtained a final and effective tentative parcel map or tentative map approval on or prior to the
8 180th day following service of the lawsuit, then that applicant may proceed to final parcel map
9 or final subdivision map approval and recordation of the subdivision map. At any time during
10 a suspension of the Expedited Conversion program, any applicant may seek a refund of the
11 condominium conversion application and condominium conversion impact fees and the
12 provisions of Section 1396 in effect on April 15, 2015 shall be operative. Upon a request for
13 an application fee refund, the reviewing City Departments shall deduct incurred costs based
14 on time and materials expended and shall refund any remaining portion of the application
15 fee(s).

16 (c) Legal Challenge to Section 1396.4(g)'s Property Owner Obligations. During a
17 suspension of the Expedited Conversion program pursuant to this Subsection based on a
18 legal challenge to any obligation on the part of any property owner under Section 1396.4(g),
19 the Department, upon service of the lawsuit, shall not accept or approve any application for
20 conversion under the program for a building with a unit occupied by a non-owning tenant(s). If
21 an owner(s) obtained a final and effective tentative parcel map or tentative map approval on
22 or prior to the service of the lawsuit, then that applicant may proceed to final parcel map or
23 final subdivision map approval and recordation of the subdivision map. Notwithstanding the
24 effects of a suspension of the Expedited Conversion program pursuant to this Subsection
25 described above and the terms of Subsection (e), the Department shall continue to accept,

1 tentatively approve, and finally approve any application for a conversion pursuant to the
2 requirements of the Expedited Conversion program for any building that has no units occupied
3 by a non-owning tenant(s). At any time during a suspension of the Expedited Conversion
4 program, any applicant may seek a refund of the condominium conversion application and
5 condominium conversion impact fees and the provisions of Section 1396 in effect on April 15,
6 2015 shall be operative. Upon a request for an application fee refund, the reviewing City
7 Departments shall deduct incurred costs based on time and materials expended and shall
8 refund any remaining portion of the application fee(s).

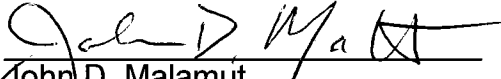
9 (d) Legal Challenge to both Section 1396.5 and Section 1396.4(g)'s Property Owner
10 Obligations. During a suspension of the Expedited Conversion program pursuant to this
11 Subsection based on a legal challenge as identified in both Subsection (b) and (c), the
12 Department, upon service of the lawsuit, shall not accept or approve any application for
13 conversion under the program. If an owner(s) obtained a final and effective tentative parcel
14 map or tentative map approval on or prior to service of the lawsuit, then that applicant may
15 proceed to final parcel map or final subdivision map approval and recordation of the
16 subdivision map. At any time during a suspension of the Expedited Conversion program, any
17 applicant may seek a refund of the condominium conversion application and condominium
18 conversion fees. Upon a request for an application fee refund, the reviewing City
19 Departments shall deduct incurred costs based on time and materials expended and shall
20 refund any remaining portion of the application fee(s).

21 (e) Upon the completion of the suspension of the Expedited Conversion period the
22 suspended Expedited Conversion program described in Section 1396.4 shall resume as if no
23 suspension had occurred. Applicants with suspended applications may resubmit their
24 applications along with all required fees and shall be considered in the same position as they
25 had at the time of the suspension. The Department shall treat the time periods described in

1 Section 1396.4(b)(1)-(7) as having been tolled during the time of suspension of the Expedited
2 Conversion program.

3 (f) Effect of Successful Lawsuit against the City, Board of Supervisors hearing. If there
4 is a final judgment in the lawsuit in all courts and the challenged provision(s) specified in this
5 Section are deemed invalid in whole or in part, the Expedited Conversion program set forth in
6 Section 1396.4 shall terminate except for those particular buildings authorized to convert
7 pursuant to Subsection (b), (c), or (d) and the condominium conversion lottery shall be
8 suspended in its entirety until its resumption after January 1, 2024. Upon a court's final
9 judgment in the lawsuit in all courts that the challenged provision(s) specified in this Section
10 are deemed invalid in whole or in part, the City Attorney shall promptly notify the Clerk of the
11 Board of Supervisors of such judgment. Upon receipt of this notice, the Clerk shall schedule a
12 public hearing(s) before the full Board or an appropriate committee of the Board, based on
13 consultation with the President of the Board of Supervisors. The purpose of such hearing(s)
14 shall be to provide a forum for public dialogue and shall address, but not be limited to,
15 consideration of revisions to the condominium conversion process consistent with the court's
16 findings, exploration of alternative condominium conversion policies that seek to balance the
17 often competing interests of the City, property owners, prospective owners, and tenants;
18 discussion of the benefits and burdens as well as the distributive impacts of a citywide
19 condominium conversion process and affordable housing production and opportunities; and
20 concepts that support and balance the goal of homeownership with protection of rental
21 properties and their tenants.

1 APPROVED AS TO FORM:
2 DENNIS J. HERRERA, City Attorney

3 By: 
4 John D. Malamut
5 Deputy City Attorney
6 n:\legal\alas2013\1200120\00853641.doc



City and County of San Francisco
Tails
Ordinance

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

File Number: 120669

Date Passed: June 18, 2013

Ordinance amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion fee applicable to certain buildings that would be permitted to convert during a seven year period, and subject to specified requirements, including lifetime leases for non-purchasing tenants; adding Section 1396.5, to suspend the annual condominium conversion lottery until 2024 and resume said lottery under specified circumstances tied to permanently affordable rental housing production; amending Section 1396, to restrict future condominium lotteries to buildings of no more than four units with a specified number of owner occupied units for three years prior to the lottery and provide an exception for certain five- and six-unit buildings to participate in the lottery; and adopting environmental findings.

January 28, 2013 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

January 28, 2013 Land Use and Economic Development Committee - CONTINUED AS AMENDED

February 25, 2013 Land Use and Economic Development Committee - CONTINUED

March 11, 2013 Land Use and Economic Development Committee - CONTINUED

March 25, 2013 Land Use and Economic Development Committee - CONTINUED

April 15, 2013 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

April 15, 2013 Land Use and Economic Development Committee - CONTINUED AS AMENDED

April 22, 2013 Land Use and Economic Development Committee - RECOMMENDED

May 07, 2013 Board of Supervisors - RE-REFERRED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

May 13, 2013 Land Use and Economic Development Committee - CONTINUED

May 20, 2013 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

May 20, 2013 Land Use and Economic Development Committee - DUPLICATED AS AMENDED

May 20, 2013 Land Use and Economic Development Committee - CONTINUED AS AMENDED

June 03, 2013 Land Use and Economic Development Committee - RECOMMENDED

June 11, 2013 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

Ayes: 8 - Avalos, Breed, Campos, Chiu, Cohen, Kim, Mar and Yee

Noes: 3 - Farrell, Tang and Wiener

June 11, 2013 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 8 - Avalos, Breed, Campos, Chiu, Cohen, Kim, Mar and Yee

Noes: 3 - Farrell, Tang and Wiener


June 18, 2013 Board of Supervisors - FINALLY PASSED

Ayes: 8 - Avalos, Breed, Campos, Chiu, Cohen, Kim, Mar and Yee

Noes: 3 - Farrell, Tang and Wiener

File No. 120669

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/18/2013 by the Board of Supervisors of the City and County of San Francisco.


Angela Calvillo
Clerk of the Board


Unsigned

Mayor

June 28, 2013

Date Approved

I hereby certify that the foregoing ordinance, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.


Angela Calvillo
Clerk of the Board



SAN FRANCISCO PLANNING DEPARTMENT

Discretionary Review Full Analysis

HEARING DATE NOVEMBER 13, 2014

Date: November 6, 2014
Case No.: 2012.0909D
Project Address: 690 PAGE STREET
Permit Applications: 201305217455, 201305217457, 201305217462, 201305217463,
201305217464
Zoning: RM-1 (Residential, Mixed, Low-Density)
40-X Height and Bulk District
Block/Lot: 0843/016
Project Sponsor: Gary Gee
Gary Gee Architects, Inc.
98 Brady Street #8
San Francisco, CA 94103
Staff Contact: Christine Lamorena – (415) 575-9085
christine.lamorena@sfgov.org
Recommendation: **Do not take DR and approve the project as proposed**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The proposed project includes the demolition of an existing 2,050 square foot, circa 1959 single-story former church building and parking lot and the construction of four residential buildings with three dwelling units in each, totaling 12 dwelling units. The four buildings would each be four stories in height with at-grade garages containing three off-street vehicle parking spaces, three Class I bicycle parking spaces, and roof decks for common open space. The project includes one on-site affordable unit pursuant to the Inclusionary Affordable Housing Program and Planning Code Section 415.

The four buildings would include frontage on Page Street and range in size from 5,400 to 5,900 square feet with a maximum height of 40 feet. The 12 individual dwelling units would range in size from 1,300 to 1,500 square feet and all units would have three bedrooms. The proposal includes subdivision into four (4) lots each 1,950 square feet in size.

SITE DESCRIPTION AND PRESENT USE

The project site is located on the northwest corner of Steiner and Page Streets, Assessor's Block 0843, Lot 016. The project site is within a RM-1 (Residential, Mixed, Low-Density) Zoning District and 40-X Height and Bulk District. The existing one-story building, which formerly house a church, is on the eastern portion of the lot and a 15-space surface parking lot is on the western portion of the lot.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is a corner lot with a vehicle entrance on Steiner Street. The adjacent property at 668-678 Page Street contains a three-story over garage, six unit building. The adjacent property at 410 Steiner Street contains a three-story, three unit building. Along the subject block on Page Street, the buildings range from three to five stories in height. Across Page Street, the buildings heights range from two to four stories in height.

BUILDING PERMIT APPLICATION NOTIFICATION

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
311 Notice	30 days	June 5, 2014 – July 5, 2014	July 3, 2014	November 13, 2014	133 days

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	November 3, 2014	November 3, 2014	10 days
Mailed Notice	10 days	November 3, 2014	November 3, 2014	10 days

PUBLIC COMMENT

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	1	1 (DR Requestor)	
Other neighbors on the block or directly across the street	15		2
Neighborhood groups			

To date, the Department received 16 letters in support of the project and exchanged phone calls with two neighbors with no position, but requesting additional information.

DR REQUESTOR

Michel Bechirian, condominium owner of 678 Page Street, a six-unit condominium building located immediately to the east of the project site.

DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES

Issue #1: Loss of light to DR Requestor and adjacent units.

Issue #2: Noise from proposed roof decks.

Issue #3: DR Requestor loss of privacy from proposed roof deck (lives at top unit of adjacent building).

Issue #4: Project not consistent with side spacing pattern on north side of Page Street.

Issue #5: Loss of access to exterior service pipes at DR Requestor building.

The DR Requestor suggests that the Project Sponsor eliminate one building and reconfigure the site such that the three buildings would front on Steiner Street instead of Page Street. Doing so would increase the depths of the lots and allow for larger rear yards and move potential roof decks away from the DR Requestor's building.

See attached *Discretionary Review Application* for additional information.

PROJECT SPONSOR'S RESPONSE

See attached *Response to Discretionary Review and Project Sponsor Submittal (Reuben, Junius & Rose)*.

PROJECT ANALYSIS

Light Access. The Department finds that that light access is adequately provided to the DR Requestor's property by matching an existing light well and proposing a side setback for all upper levels of the proposal along the eastern shared property line.

Noise and Privacy. The Department finds the proposed roof decks are not exceptionally or extraordinarily invasive to the privacy of the DR Requestor. Given the urban context of the project, the impact to privacy of adjacent neighbors on the block and noise generated from the use of the roof decks are not out of the ordinary or beyond what is normal for the neighborhood.

Neighborhood Building Pattern. The architectural character on the block is mixed. The Department finds that the proposed building massing and scale of development of the full width of the lot to be compatible with the surrounding buildings and immediate neighborhood.

Exterior Service Access. The DR Requestor's property includes a side setback of approximately three feet. The Department finds that access to the DR Requestor's exterior pipes would still be possible through the existing side setback at the DR Requestor's property.

ENVIRONMENTAL REVIEW

On April 29, 2014, the Environmental Planning division of the Planning Department found the project to be categorically exempt from environmental review per Class 32 per the California Environmental Quality Act (CEQA).

RESIDENTIAL DESIGN TEAM REVIEW

The Residential Design Team (RDT) found that the proposed project meets the standards of the Residential Design Guidelines (RDGs) and that the project does not present any exceptional or extraordinary circumstances for the following reasons:

- Light access is provided via side setbacks and a matching lightwell along the east side of the project (RDGs, p. 16-17).
- The potential noise and privacy impacts from the roof deck are not exceptional as the proposed deck is set back from the project side façade and also the shared property line (RDGs, p. 38).
- The neighborhood building pattern is mixed. Development of the full width of the lot is consistent with the existing building patterns in the area (RDGs, p. 10, 15).
- Access to exterior pipes at the DR Requestor's property is still possible through the existing side setback at the Requestor's property.

Although this project does not contain or create any exception or extraordinary circumstances, under the Commission's pending DR Reform Legislation, this project would be referred to the Commission, as this project involves new construction.

BASIS FOR RECOMMENDATION

The Department recommends that the Planning Commission not take Discretionary Review and approved the project as proposed for the following reasons:

- The project meets all applicable requirements of the Planning Code and is consistent with the Residential Design Guidelines.
- The project would create 12 dwelling units, each with three bedrooms, one of which meets the on-site Inclusionary Affordable Housing requirement.
- The project would be consistent with the size and density of the immediate neighborhood. The project is therefore an appropriate infill development.
- The project would not be considered exceptional or extraordinary per RDT's review.

RECOMMENDATION:	Do not take DR and approve the project as proposed.
------------------------	------------------------------------------------------------

Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Site Photograph
Section 311 Notice
DR Application
Response to DR Application
Project Sponsor Submittal:

Cover Letter
Reduced Plans
Rendering
Context Photos
Support Letters

Design Review Checklist

NEIGHBORHOOD CHARACTER (PAGES 7-10)

QUESTION	
The visual character is: (check one)	
Defined	
Mixed	X

Comments: The surrounding neighborhood consists of a mixture of two to five story buildings, containing a range of one to 20 dwelling units. Buildings vary in height and depths.

SITE DESIGN (PAGES 11 - 21)

QUESTION	YES	NO	N/A
Topography (page 11)			
Does the building respect the topography of the site and the surrounding area?	X		
Is the building placed on its site so it responds to its position on the block and to the placement of surrounding buildings?	X		
Front Setback (pages 12 - 15)			
Does the front setback provide a pedestrian scale and enhance the street?	X		
In areas with varied front setbacks, is the building designed to act as transition between adjacent buildings and to unify the overall streetscape?			X
Does the building provide landscaping in the front setback?	X		
Side Spacing (page 15)			
Does the building respect the existing pattern of side spacing?			X
Rear Yard (pages 16 - 17)			
Is the building articulated to minimize impacts on light to adjacent properties?	X		
Is the building articulated to minimize impacts on privacy to adjacent properties?	X		
Views (page 18)			
Does the project protect major public views from public spaces?			X
Special Building Locations (pages 19 - 21)			
Is greater visual emphasis provided for corner buildings?	X		
Is the building facade designed to enhance and complement adjacent public spaces?			X
Is the building articulated to minimize impacts on light to adjacent cottages?			X

Comments: The proposal appropriately infills the subject lot and respects the surrounding area. The easternmost building is set back approximately three feet from the shared property for a depth of approximately 25 feet to allow for light and air access to the neighboring building.

BUILDING SCALE AND FORM (PAGES 23 - 30)

QUESTION	YES	NO	N/A
Building Scale (pages 23 - 27)			
Is the building's height and depth compatible with the existing building scale at the street?	X		
Is the building's height and depth compatible with the existing building scale at the mid-block open space?	X		
Building Form (pages 28 - 30)			
Is the building's form compatible with that of surrounding buildings?	X		
Is the building's facade width compatible with those found on surrounding buildings?	X		
Are the building's proportions compatible with those found on surrounding buildings?	X		
Is the building's roofline compatible with those found on surrounding buildings?	X		

Comments: The proposed buildings are compatible with the established building scale at the street, as they create a stronger street wall on a block with many four-story buildings. The height and depth of the buildings are compatible in the subject block and the buildings' form, façade width, proportions, and rooflines are compatible with the mixed neighborhood context.

ARCHITECTURAL FEATURES (PAGES 31 - 41)

QUESTION	YES	NO	N/A
Building Entrances (pages 31 - 33)			
Does the building entrance enhance the connection between the public realm of the street and sidewalk and the private realm of the building?	X		
Does the location of the building entrance respect the existing pattern of building entrances?	X		
Is the building's front porch compatible with existing porches of surrounding buildings?			X
Are utility panels located so they are not visible on the front building wall or on the sidewalk?	X		
Bay Windows (page 34)			
Are the length, height and type of bay windows compatible with those found on surrounding buildings?	X		
Garages (pages 34 - 37)			
Is the garage structure detailed to create a visually interesting street frontage?	X		
Are the design and placement of the garage entrance and door compatible with the building and the surrounding area?	X		
Is the width of the garage entrance minimized?	X		
Is the placement of the curb cut coordinated to maximize on-street parking?	X		
Rooftop Architectural Features (pages 38 - 41)			
Is the stair penthouse designed to minimize its visibility from the street?	X		

Are the parapets compatible with the overall building proportions and other building elements?	X		
Are the dormers compatible with the architectural character of surrounding buildings?			X
Are the windscreens designed to minimize impacts on the building's design and on light to adjacent buildings?			X

Comments: The location of the entrances are consistent with the predominant pattern of ground floor entrances found throughout the surrounding area. The length and type of rectangular bay windows on the front and side facades are compatible with the style of bay windows found throughout the neighborhood. The garage doors are recessed from the front façade and limited to a width of approximately nine feet. The rooftop parapets are standard in size and compatible with the parapets found on other flat-roofed buildings in the area.

BUILDING DETAILS (PAGES 43 - 48)

QUESTION	YES	NO	N/A
Architectural Details (pages 43 - 44)			
Are the placement and scale of architectural details compatible with the building and the surrounding area?	X		
Windows (pages 44 - 46)			
Do the windows contribute to the architectural character of the building and the neighborhood?	X		
Are the proportion and size of the windows related to that of existing buildings in the neighborhood?	X		
Are the window features designed to be compatible with the building's architectural character, as well as other buildings in the neighborhood?	X		
Are the window materials compatible with those found on surrounding buildings, especially on facades visible from the street?	X		
Exterior Materials (pages 47 - 48)			
Are the type, finish and quality of the building's materials compatible with those used in the surrounding area?	X		
Are the building's exposed walls covered and finished with quality materials that are compatible with the front facade and adjacent buildings?	X		
Are the building's materials properly detailed and appropriately applied?	X		

Comments: The placement and scale of the architectural details are compatible with the mixed residential character of this neighborhood. The windows are residential in character and compatible with the window patterns found on neighboring buildings. Although designed in a contemporary style, the stone paneling, stucco wall finish and wood siding are compatible with the existing buildings in the neighborhood.

CL: G:\DOCUMENTS\2012\DRs\2012.0909\690 Page St - DR - Full Analysis .doc

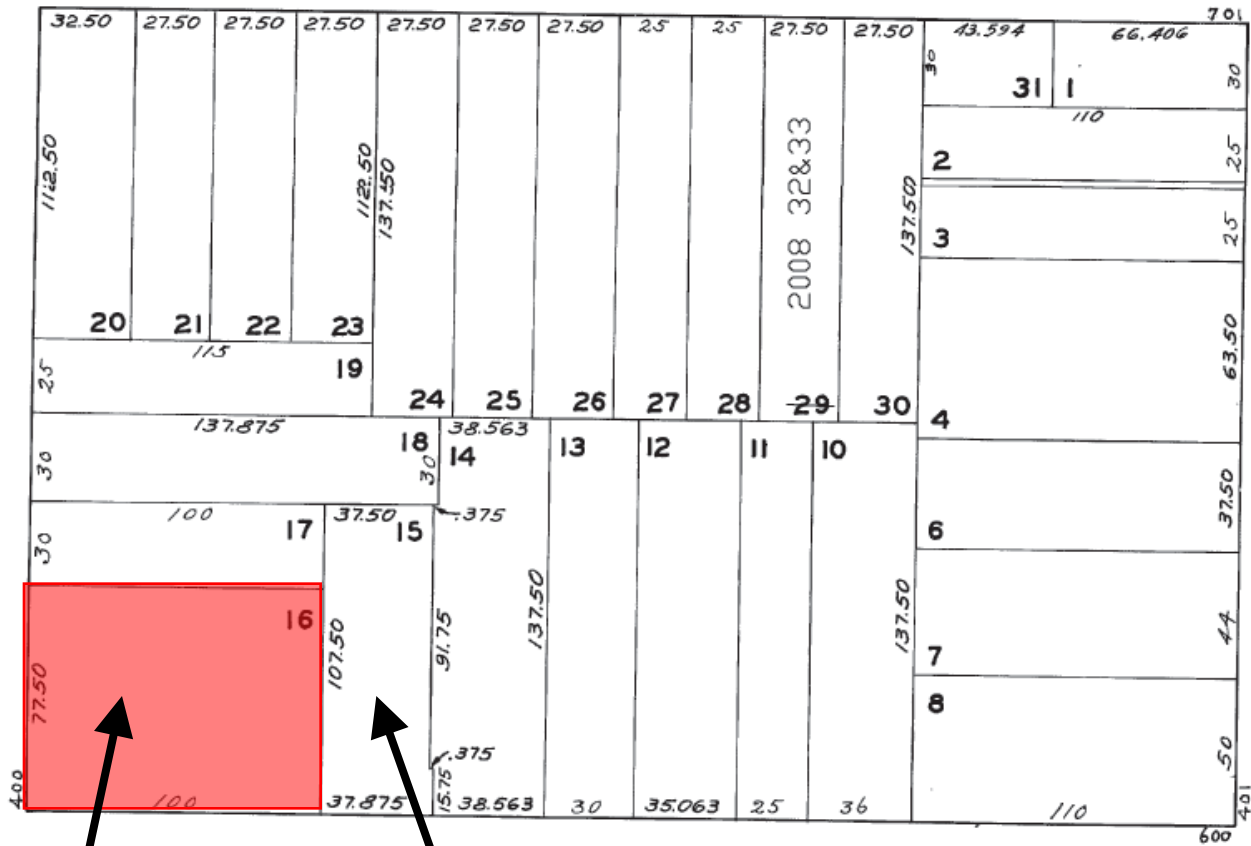
Parcel Map

OAK



STEINER

FILLMORE



PAGE

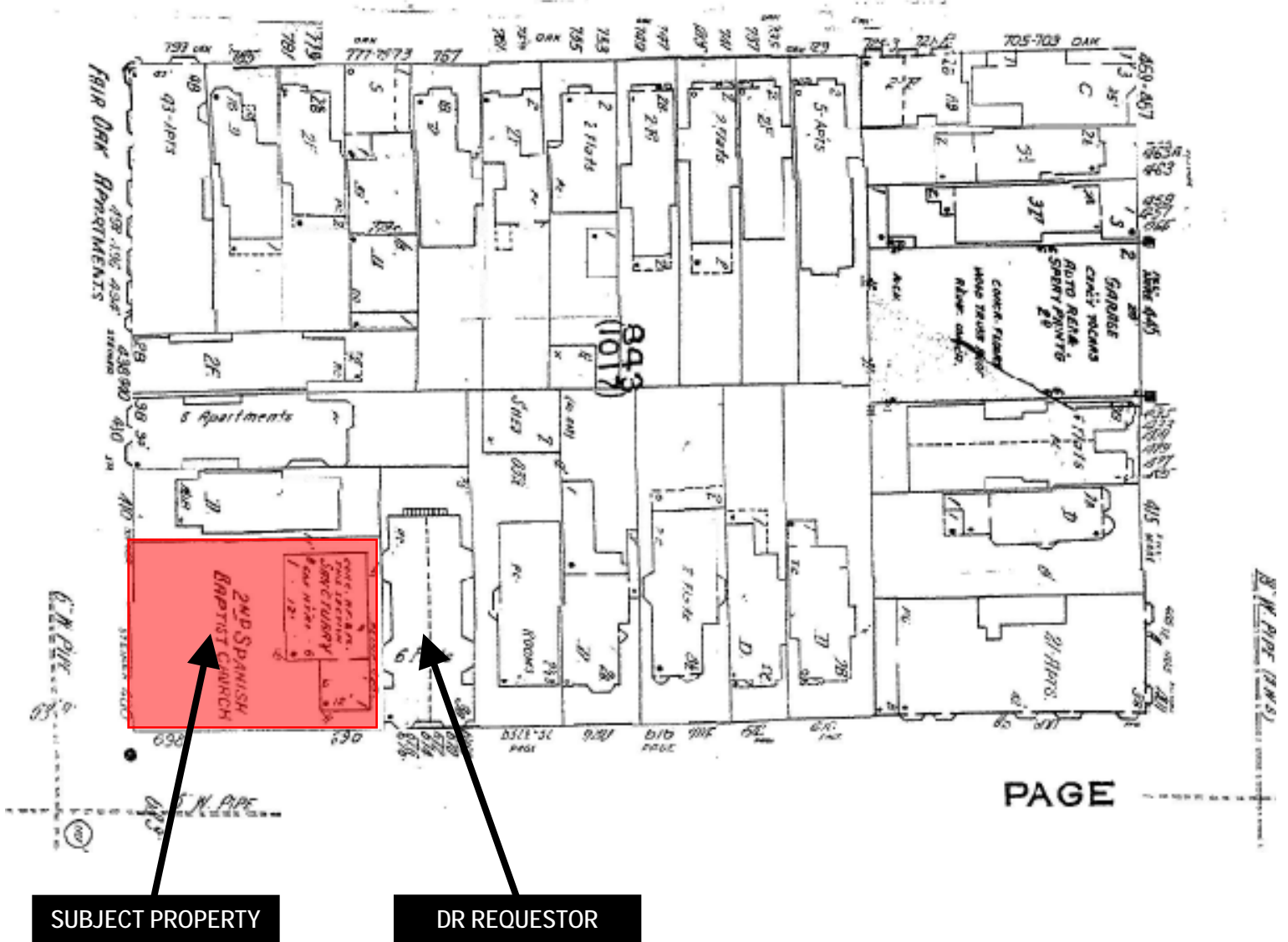
SUBJECT PROPERTY

DR REQUESTOR



Discretionary Review Hearing
Case Number 2012.0909D
690 Page Street
Block 0843 / Lot 016

Sanborn Map*

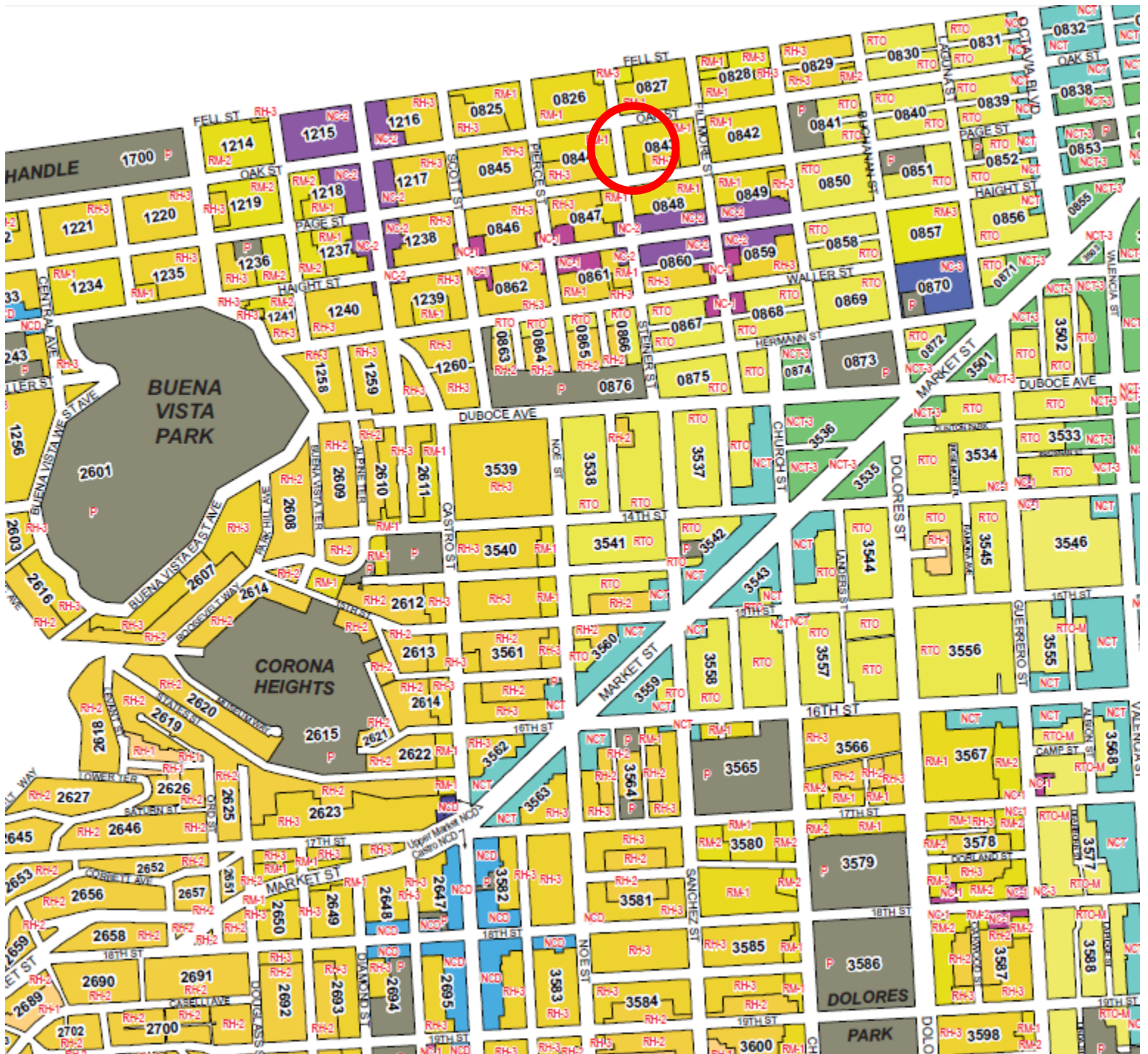


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Discretionary Review Hearing
Case Number 2012.0909D
690 Page Street
Block 0843 / Lot 016

Zoning Map



Discretionary Review Hearing
Case Number 2012.0909D
690 Page Street
Block 0843 / Lot 016

Aerial Photo (looking north)



SUBJECT PROPERTY

DR REQUESTOR

Discretionary Review Hearing
Case Number 2012.0909D
690 Page Street
Block 0843 / Lot 016

Aerial Photo (looking east)

DR REQUESTOR



SUBJECT PROPERTY

Discretionary Review Hearing
Case Number 2012.0909D
690 Page Street
Block 0843 / Lot 016

Site Photo



Discretionary Review Hearing
Case Number 2012.0909D
690 Page Street
Block 0843 / Lot 016



SAN FRANCISCO PLANNING DEPARTMENT

1650 Mission Street Suite 400 San Francisco, CA 94103

NOTICE OF BUILDING PERMIT APPLICATION (SECTION 311/312)

On May 21, 2014, the Applicant named below filed Building Permit Application Nos. 201305217457, 201305217462, 201305217463, and 201305217464 with the City and County of San Francisco.

PROPERTY INFORMATION		APPLICANT INFORMATION	
Project Address:	690 Page Street	Applicant:	Gary Gee
Cross Street(s):	Steiner	Address:	98 Brady Street #8
Block/Lot No.:	0843/016	City, State:	San Francisco, CA 94103
Zoning District(s):	RM-1 / 40-X	Telephone:	(415) 863-8881

You are receiving this notice as a property owner or resident within 150 feet of the proposed project. You are not required to take any action. For more information about the proposed project, or to express concerns about the project, please contact the Applicant listed above or the Planner named below as soon as possible. If you believe that there are exceptional or extraordinary circumstances associated with the project, you may request the Planning Commission to use its discretionary powers to review this application at a public hearing. Applications requesting a Discretionary Review hearing must be filed during the 30-day review period, prior to the close of business on the Expiration Date shown below, or the next business day if that date is on a week-end or a legal holiday. If no Requests for Discretionary Review are filed, this project will be approved by the Planning Department after the Expiration Date.

Members of the public are not required to provide personal identifying information when they communicate with the Commission or the Department. All written or oral communications, including submitted personal contact information, may be made available to the public for inspection and copying upon request and may appear on the Department's website or in other public documents.

PROJECT SCOPE		
<input checked="" type="checkbox"/> Demolition	<input checked="" type="checkbox"/> New Construction	<input type="checkbox"/> Alteration
<input checked="" type="checkbox"/> Change of Use	<input type="checkbox"/> Façade Alteration(s)	<input type="checkbox"/> Front Addition
<input type="checkbox"/> Rear Addition	<input type="checkbox"/> Side Addition	<input type="checkbox"/> Vertical Addition
PROJECT FEATURES	EXISTING	PROPOSED
Building Use	Non-residential (former church)	Residential
Front Setback	9'-3"	Ranging 1'-5" to 1'-9"
Side Setbacks	Ranging 5'-0" to 8'-4" (east property line)	None
Building Depth	62'-11"	Ranging approx. 56'-8.5" to 58'-1.5"
Rear Yard	n/a	19'-4.5"
Building Height	Approx. 10'-4"	40'-0"
Number of Stories	1	3 over garage
Number of Dwelling Units	0	12
Number of Parking Spaces	15 (surface parking lot)	12 (garage spaces)
PROJECT DESCRIPTION		
The proposal is to demolish the existing one-story building and surface parking lot and construct four, multi-family buildings with three dwelling units each, totaling 12 dwelling units. The four buildings would be four-stories in height with roof decks. See attached plans.		
The issuance of the building permit by the Department of Building Inspection or the Planning Commission project approval at a discretionary review hearing would constitute as the Approval Action for the project for the purposes of CEQA, pursuant to Section 31.04(h) of the San Francisco Administrative Code.		

For more information, please contact Planning Department staff:

Planner: Christine Lamorena
Telephone: (415) 575-9085
E-mail: christine.lamorena@sfgov.org

Notice Date: **6/05/2014**
Expiration Date: **7/05/2014**

中文詢問請電: **(415) 575-9010**

Para información en Español llamar al: **(415) 575-9010**

GENERAL INFORMATION ABOUT PROCEDURES

Reduced copies of the proposed project plans have been included in this mailing for your information. If you have questions about the plans, please contact the project Applicant listed on the front of this notice. You may wish to discuss the plans with your neighbors or neighborhood association, as they may already be aware of the project. If you have general questions about the Planning Department's review process, please contact the Planning Information Center at 1660 Mission Street, 1st Floor (415/ 558-6377) between 8:00am - 5:00pm Monday-Friday. If you have specific questions about the proposed project, you should contact the planner listed on the front of this notice.

If you believe that the impact on you from the proposed project is significant and you wish to seek to change the project, there are several procedures you may use. **We strongly urge that steps 1 and 2 be taken.**

1. Request a meeting with the project Applicant to get more information and to explain the project's impact on you.
2. Contact the nonprofit organization Community Boards at (415) 920-3820, or online at www.communityboards.org for a facilitated discussion in a safe and collaborative environment. Community Boards acts as a neutral third party and has, on many occasions, helped reach mutually agreeable solutions.
3. Where you have attempted, through the use of the above steps or other means, to address potential problems without success, please contact the planner listed on the front of this notice to discuss your concerns.

If, after exhausting the procedures outlined above, you still believe that exceptional and extraordinary circumstances exist, you have the option to request that the Planning Commission exercise its discretionary powers to review the project. These powers are reserved for use in exceptional and extraordinary circumstances for projects which generally conflict with the City's General Plan and the Priority Policies of the Planning Code; therefore the Commission exercises its discretion with utmost restraint. This procedure is called Discretionary Review. If you believe the project warrants Discretionary Review by the Planning Commission, **you must file a Discretionary Review application prior to the Expiration Date shown on the front of this notice.** Discretionary Review applications are available at the Planning Information Center (PIC), 1660 Mission Street, 1st Floor, or online at www.sfplanning.org. You must submit the application in person at the Planning Information Center (PIC) between 8:00am - 5:00pm Monday-Friday, with all required materials and a check payable to the Planning Department. To determine the fee for a Discretionary Review, please refer to the Planning Department Fee Schedule available at www.sfplanning.org. If the project includes multiple building permits, i.e. demolition and new construction, a **separate request for Discretionary Review must be submitted, with all required materials and fee, for each permit that you feel will have an impact on you.**

Incomplete applications will not be accepted.

If no Discretionary Review Applications have been filed within the Notification Period, the Planning Department will approve the application and forward it to the Department of Building Inspection for its review.

BOARD OF APPEALS

An appeal of the Planning Commission's decision on a Discretionary Review case may be made to the **Board of Appeals within 15 calendar days after the building permit is issued** (or denied) by the Department of Building Inspection. Appeals must be submitted in person at the Board's office at 1650 Mission Street, 3rd Floor, Room 304. For further information about appeals to the Board of Appeals, including current fees, contact the Board of Appeals at (415) 575-6880.

ENVIRONMENTAL REVIEW

This project has undergone preliminary review pursuant to California Environmental Quality Act (CEQA). If, as part of this process, the Department's Environmental Review Officer has deemed this project to be exempt from further environmental review, an exemption determination has been prepared and can be obtained through the Exemption Map, on-line, at www.sfplanning.org. An appeal of the decision **to exempt the proposed project from CEQA may be made to the Board of Supervisors within 30 calendar days** after the project approval action identified on the determination. The procedures for filing an appeal of an exemption determination are available from the Clerk of the Board at City Hall, Room 244, or by calling (415) 554-5184.

Under CEQA, in a later court challenge, a litigant may be limited to raising only those issues previously raised at a hearing on the project or in written correspondence delivered to the Board of Supervisors, Planning Commission, Planning Department or other City board, commission or department at, or prior to, such hearing, or as part of the appeal hearing process on the CEQA decision.

APPLICATION FOR Discretionary Review

1. Owner/Applicant Information

DR APPLICANT'S NAME: Michel Bechirian		
DR APPLICANT'S ADDRESS: 678 Page Street	ZIP CODE: 94117	TELEPHONE: (415)3508683
PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME: Page Steiner Associates LLC		
ADDRESS: 431 Steiner Street	ZIP CODE: 94117	TELEPHONE: ()
CONTACT FOR DR APPLICATION: Same as Above <input checked="" type="checkbox"/>		
ADDRESS:	ZIP CODE:	TELEPHONE: ()
E-MAIL ADDRESS: mbussfo@yahoo.com		

2. Location and Classification

STREET ADDRESS OF PROJECT: 690 Page Street		ZIP CODE: 94117		
CROSS STREETS: Steiner				
ASSESSORS BLOCK/LOT: 0845 /016	LOT DIMENSIONS: 77.5 x 110 ft	LOT AREA (SQ FT): 7749	ZONING DISTRICT: RM-1 / 40-X	HEIGHT/BULK DISTRICT:

3. Project Description

Please check all that apply

Change of Use ☒ Change of Hours ☐ New Construction ☒ Alterations ☐ Demolition ☒ Other ☐Additions to Building: Rear ☐ Front ☐ Height ☐ Side Yard ☐
Non-residential - church

Present or Previous Use:

Proposed Use: Residential

Building Permit Application No. 201305217457, 201305217462/3/4

Date Filed: May 21, 2014

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

My neighbor and I met with the architect Gary Gee to discuss our concern about light and noise. The proposed project will significantly reduce the amount of daylight to our units. The addition of a roof deck will introduce a new source of noise and intrude on privacy as the location of the deck provides sight lines to bedroom and bathroom windows. Mr. Gee agreed to discuss extending the planned 18 ft setback at the rear of the proposed building to ensure the entire south bay window of our unit (main bedroom) faced a light well. (continued...)

Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and cite specific sections of the Residential Design Guidelines.

The proposed project conflicts with the following guidelines: 'Articulate the building to minimize impacts on light and privacy to adjacent properties'. And, 'Respect the existing pattern of side spacing'. The unnecessary proximity of the proposed structure materially impacts the quality and quantity of light and introduces serious privacy concerns for the adjacent property owners. If built as proposed, side spacing will not be consistent with other buildings on the block (the north side of Page St). (Continued on separate sheet...)

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

By focusing on the maximum number of units that can fit the space, the owners have developed a design that unreasonably impacts the adjacent building. A 40 ft building so close to the property line will limit light. With the exception of the living room, all windows in units 670, 674, 678 Page St face west. The lower unit, 670 Page St, is occupied by Mrs. Iris Canada a 91 year old who has lived in the building since the 1940's. Even with a setback the amount of light filtering down to her apartment will be minimal. (Continued on separate sheet...)

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

The size of the lot provides the opportunity to construct multiple buildings. If the project consisted of three rather than four buildings these could be constructed facing onto Steiner St. Positioning the buildings on this axis would maintain the light levels and access to services for our building and would not impact the building on block/lot 0843/017. The depth of the lot would allow a sufficiently large rear yard to meet the requirement for outside space for at least two, if not all units. (Continued on separate sheet...)

12.0909D

Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: _____

M. Bechirian

Date: _____

7/2/2014

Print name, and indicate whether owner, or authorized agent:

Michel Bechirian

Owner / Authorized Agent (circle one)

Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and **signed by the applicant or authorized agent**.

REQUIRED MATERIALS (please check correct column)	DR APPLICATION
Application, with all blanks completed	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Photocopy of this completed application	<input checked="" type="checkbox"/>
Photographs that illustrate your concerns	<input type="checkbox"/>
Covenant or Deed Restrictions	<input type="checkbox"/>
Check payable to Planning Dept.	<input type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input type="checkbox"/>

NOTES:

☐ Required Material.

☐ Optional Material.

☐ Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only

Application received by Planning Department:

By: M. Corruite

Date:

RECEIVED

JUL 03 2014

CITY & COUNTY OF S.F.
PLANNING DEPARTMENT
P.I.C.

APPLICATION FOR Discretionary Review

DR Applicant: Michel Bechirian. 678 Page St, SF, CA 94117

Property Owner: Page Steiner Assoc. 431 Steiner St, SF, CA 94117

Project Address: 690 Page St, Block / Lot 0845 / 016

Permit Numbers: 201305217457, 201305217462, 201305217463, 201305217464

5. Changes Made to the Project as a Result of Mediation

My neighbor and I met with the architect Gary Gee to discuss our concern about light and noise. The proposed project will significantly reduce the amount of daylight to our units. The addition of a roof deck will introduce a new source of noise and intrude on privacy as the location of the deck provides sight lines to bedroom and bathroom windows. Mr. Gee agreed to discuss extending the planned 18 ft setback at the rear of the proposed building to ensure the entire south bay window of our unit (main bedroom) faced a light well.

Continued:

Mr. Gee agreed that if the proposed project does indeed go ahead as planned, the light wells will be finished in a bright color to maximize reflective potential.

Mr. Gee was unable to propose a solution to our noise and privacy concerns because planning code for the amount of outside space per unit determined the size and therefore location of the roof deck.

APPLICATION FOR Discretionary Review

DR Applicant: Michel Bechirian. 678 Page St, SF, CA 94117

Property Owner: Page Steiner Assoc. 431 Steiner St, SF, CA 94117

Project Address: 690 Page St, Block / Lot 0845 / 016

Page 9, 1.

The proposed project conflicts with the following guidelines: 'Articulate the building to minimize impacts on light and privacy to adjacent properties'. And, 'Respect the existing pattern of side spacing'. The unnecessary proximity of the proposed structure materially impacts the quality and quantity of light and introduces serious privacy concerns for the adjacent property owners. If built as proposed, side spacing will not be consistent with other buildings on the block (the north side of Page St).

Continued:

The original building use was non-residential; it was in fact a church which provided charitable assistance to those in need. Changing the use from charitable, to for profit residential has not been thoroughly reviewed and debated. Finally, the opportunity to discuss the project with the owners has been limited. Case in point, the final meeting was held in a café on a Saturday morning. There wasn't space for the architect to display the plans, and with music and general background noise it was hard, if not impossible to have a meaningful discussion. This seemed an exercise in ticking boxes in a process.

Page 9, 2.

By focusing on the maximum number of units that can fit the space, the owners have developed a design that unreasonably impacts the adjacent building. A 40 ft building so close to the property line will limit light. With the exception of the living room, all windows in units 670, 674, 678 Page St face west. The lower unit, 670 Page St, is occupied by Mrs. Iris Canada a 97 year old who has lived in the building since the 1940's. Even with a setback the amount of light filtering down to her apartment will be minimal.

Continued:

Allowing the project to proceed as designed will condemn Iris to live in a dark, cave like environment. My wife is a freelance graphic designer who often works from home. As a designer she relies on good daylight to ensure accurate color correction on production work. Reducing light to our apartment will impact her ability to work effectively, which in turn will impact her ability to earn a living. The proposed design requires the inclusion of a roof deck for all buildings. A roof deck adds rooftop features and adds clutter. The roof deck will provide the opportunity to sight lines that encroach on our privacy. Of particular concern are sight lines to bedroom and bathroom windows. The purpose of the roof deck is to provide access to outside space; an unintended side effect is the likely generation of noise at a level in line with bedrooms and work areas. Street noise can't be avoided, noise by design can. Our building was

constructed in 1907. Water and waste pipework and the flue for the central heating furnaces are all located externally (as is the downspout from the roof). The original Victorian building on Lot 016 faced Steiner St and did not extend close to building. If the project proceeds as designed it will be extremely difficult to access service pipes for repair. This has a potential for health and safety issues. Finally, the design of the project is inconsistent with the existing pattern of side spacing on the north side of Page St. With the exception of a mid-century apartment building on the southeast corner of the block, all of the buildings are Victorian and all have adequate space between to allow for light, privacy and access to services.

Page 9, 3.

The size of the lot provides the opportunity to construct multiple buildings. If the project consisted of three rather than four buildings these could be constructed facing onto Steiner St. Positioning the buildings on this axis would maintain the light levels and access to services for our building and would not impact the building on block/lot 0843/017. The depth of the lot would allow a sufficiently large rear yard to meet the requirement for outside space for at least two, if not all units.

Continued:

If a roof deck was still required, the size of the deck would be smaller than the original design and would be located further away from our building reducing privacy and noise concerns. If three buildings were constructed on Page St, adequate spacing could be provided between the structures to allow for light levels to be maintained and to provide access to services. Although concern over privacy and noise would remain these would be diminished by locating the proposed 690 Page St building several feet further from the property line.

DR Applicant: Michel Bechirian. 678 Page St, SF, CA 94117

Property Owner: Page Steiner Assoc. 431 Steiner St, SF, CA 94117

Project Address: 690 Page St, Block / Lot 0845 / 016

12.0909D

APPLICATION FOR DISCRETIONARY REVIEW

DR APPLICANT: MICHEL BEGHIRIAN

PROJECT ADDRESS: BLOCK/LOT 0845/016

SIDE SPACING.



THE NORTH SIDE OF PAGE ST SHOWING DR APPLICANT'S
BUILDING 0843/15 & NEIGHBOR 0843/14

SPACING PROVIDES ACCESS TO LIGHT & MAINTAINS PRIVACY
FOR BOTH BUILDINGS.

APPLICATION FOR DISCRETIONARY REVIEW

DR APPLICANT: MICHEL BECHIRIAN

PROJECT ADDRESS: BLOCK/LOT 0845/016

12.09090

SIDE SPACING



THE NORTH SIDE OF PAGE ST SHOWING SIDE SPACING
(LHR) BUILDINGS 0843/13 , 0843/12 , 0843/11

TYPICAL SPACING PROVIDES AMPLE ROOM BETWEEN BUILDINGS
FOR LIGHT & PRIVACY

APPLICATION FOR DISCRETIONARY REVIEW

DR APPLICANT: MICHEL BECHIRIAN

PROJECT ADDRESS: BLOCK/LOT 0845/016

12.0909D

MRS. IRIS CANADA, RESIDENT IN APPLICANT'S BUILDING
SINCE WWII



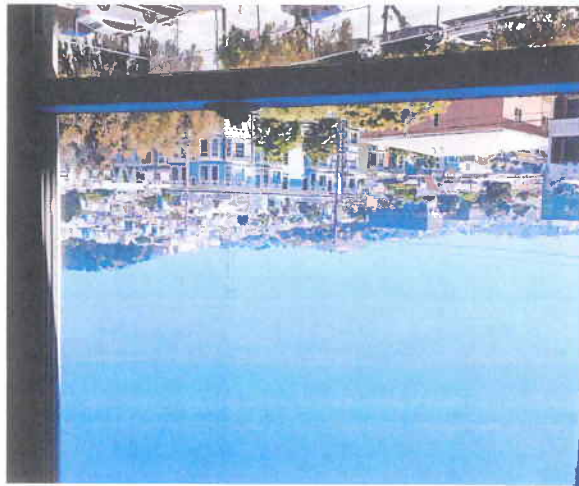
LIGHT

THE QUALITY OF LIGHT TO IRIS'S LOWER UNIT

WILL BE ADVERSELY AFFECTED BY THE PROPOSED DESIGN

12.09090

LIGHT & PRIVACY



LIGHT FROM WEST, AND SOUTHWEST WINDOWS OF APPLICANT'S UNIT
THE HEIGHT & PROXIMITY OF THE PROPOSED DESIGN WILL ADVERSELY
AFFECT LIGHT AND WILL BE A PRIVACY CONCERN.

APPLICATION FOR DISCRETIONARY REVIEW

DR APPLICANT: MICHEL BECHIRIAN

PROJECT ADDRESS: BLOCK/LT 0845/016

12.09090

VIEW OF PROJECT ADDRESS - 690 PAGE ST



LIGHT & PRIVACY



PAGE ST. VIEW OF DR APPLICANT'S BUILDING TAKEN FROM PROJECT SITE 0845/016
NOTE WINDOWS OF LOWER UNIT (670) ARE NOT OBSTRUCTED BY EXISTING STRUCTURE.
THE PROPOSED NEW BUILDING WILL SEVERELY RESTRICT ACCESS TO
WATER & WASTE PIPEWORK, FURNANCE FLUES & ROOF DOWNSPOUT.
THE HEIGHT & PROXIMITY IMPACTS LIGHT & THE ROOF DECK ENCRACHES
ON PRIVACY



SAN FRANCISCO PLANNING DEPARTMENT

RESPONSE TO DISCRETIONARY REVIEW

Case No.: 12.0909D

Building Permit No.: 2013.05.21.7457

Address: 690 PAGE ST.

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Sponsor's Name: PAGE STEINER ASSOCIATES LLC (VICTOR QUAN)

Telephone No.: 415-531-8311 (for Planning Department to contact)

1. Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requester, please meet the DR requester in addition to reviewing the attached DR application.)

PLEASE REFER TO ATTACHED SHEETS:

INCLUDING MEETING NOTES AND CORRESPONDENCE
WITH DR REQUESTOR.

2. What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes. Indicate whether the changes were made before filing your application with the City or after filing the application.


3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Please explain your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

If you have any additional information that is not covered by this application, please feel free to attach additional sheets to this form.

4. Please supply the following information about the proposed project and the existing improvements on the property.

<u>Number of</u>	<u>Existing</u>	<u>Proposed</u>
Dwelling units (only one kitchen per unit –additional kitchens count as additional units)	<u>0</u>	<u>12</u>
Occupied stories (all levels with habitable rooms) ...	<u>1</u>	<u>3</u>
Basement levels (may include garage or windowless storage rooms)	<u>0</u>	<u>1</u>
Parking spaces (Off-Street)	<u>13</u>	<u>12</u>
Bedrooms	<u>0</u>	<u>36</u>
Gross square footage (floor area from exterior wall to exterior wall), not including basement and parking areas....	<u>1,984</u>	<u>17,169</u>
Height	<u>13</u>	<u>40</u>
Building Depth	<u>63'</u>	<u>56'-8 1/2"</u>
Most recent rent received (if any)	_____	_____
Projected rents after completion of project	_____	<u>N/A</u>
Current value of property	_____	_____
Projected value (sale price) after completion of project (if known)	<u>N/A</u>	<u>N/A</u>

I attest that the above information is true to the best of my knowledge.

	<u>7/31/2014</u>	<u>VICTOR QUAN</u>
Signature	Date	Name (please print)

RESPONSE TO DISCRETIONARY REVIEW

CASE No.: 12.0909D

PERMIT No.: 2013.05.21.7457, -7462, -7463, and -7464

690 PAGE STREET

JULY 28, 2014

1. Our initial approach to this property was to design buildings that would fit into the urban pattern of the blockface. We considered the following conditions:
 - A. The RM-1 Zoning promotes the 25-35 foot building modulation at the facades. Page Street was selected to create 25 foot frontages that emulate the facades on Page and Steiner Streets.
 - B. If Steiner Street had been selected as the building frontages, the new buildings could be 10' higher in mass due to the steep upslope of Steiner Street.
 - a. Buildings facing Steiner Street creates nine residential units and no affordable unit. These buildings would have 25.83'x 75' footprints.
 - b. Buildings facing Page Street creates 12 residential units and one affordable unit. These buildings will have 25'x 56'-8-1/2" footprints.
 - C. We met with the Planning staff to discuss building adjacencies to our proposed project.
 - a. Planning staff recommended the east side of 680 Page building have a three foot setback on the residential levels two-thirds of the depth of the existing 678 Page west lightwell. The 680 Page new building setback is 3'x 18' in size.
 - b. A second 3'x 5' lightwell was located towards the front of the building to match another 678 Page west lightwell.
 - D. The DR requestor has a building higher than 40' on a wider and deeper lot (37.875'x 107) with six (6) front to rear residential flats. This building has a large footprint and occupies a large portion of their lot.
 - E. Therefore, this project should be approved because:
 - a. The proposed project fits into the block face with its 25' frontages and individual stoop entrances. The building pattern of the block is maintained.
 - b. This proposed project creates 12 residential units and one affordable unit for the City.
 - c. The new 680 Page Street building has been modified with side lightwells to respond to the existing adjacent west lightwells at 678 Page Street.
2. The project sponsor interacted with the DR requestor at the following meetings:
 - Initial neighborhood pre-application meeting on January 24, 2013.
 - Neighborhood meeting on April 17, 2014.
 - Private meeting at his residence on June 12, 2014.
 - A. During the last June 12, 2014 meeting the DR requestor asked if the northeast lightwell at the new 680 Page building could be extended south to allow more light into his bedroom. After this meeting, project architect (Gary Gee) informed the DR requestor via telephone

- the project sponsors were willing to extend the 3' wide lightwell 18' from the rear of the building to his requested location.
- B. Project sponsors also agreed to use a bright white color in the lightwell to create more indirect light into this area.
 - C. Project architect has looked at moving the roof deck to the southern portion of the roof. The common area open space requirements for minimum dimension of 15' limit the location and areas for which this area can be located on the south side of the roof. We offered to move the deck as far south and west as possible to create more privacy to the adjacent 678 Page building.
3. As discussed above, the project sponsor has already proposed changes to the new 680 Page Street building as a way to respond to DR requestor concerns. The development of the four (4) buildings facing Page Street provide greater opportunities to the neighborhood and City:
- A. The 25' facades with individual stoop entrances maintain the neighborhood scale along Page Street. We worked with the Planning staff to design each building to acknowledge the existing proportions and architectural massing features of the blockface and neighborhood.
 - B. 12 residential units with 3 bedrooms 2 baths family style units will add to the housing stock along with one affordable family unit. The building fronting Steiner Street would offer fewer family-sized housing units.
 - C. The two (2) buildings to the south at 690 and 698 Page Street could actually be built five feet (5') higher due to the existing grade of the parking lot. The project sponsor consciously decided to design these buildings to a 40' height from the Page Street sidewalk to maintain a consistent urban design form of buildings along Page Street.
 - D. The proposed rear yards for the buildings facing Page Street will be elevated due to the slope of the block and be part of the lower units in each building. This allows the rear yard to be accessible to a residential unit and creates an open space buffer between the new buildings and the north adjacent 410 Steiner multi-family building. The 410 Steiner Street building is situated on the hill above our Page Street site.



7/31/2014

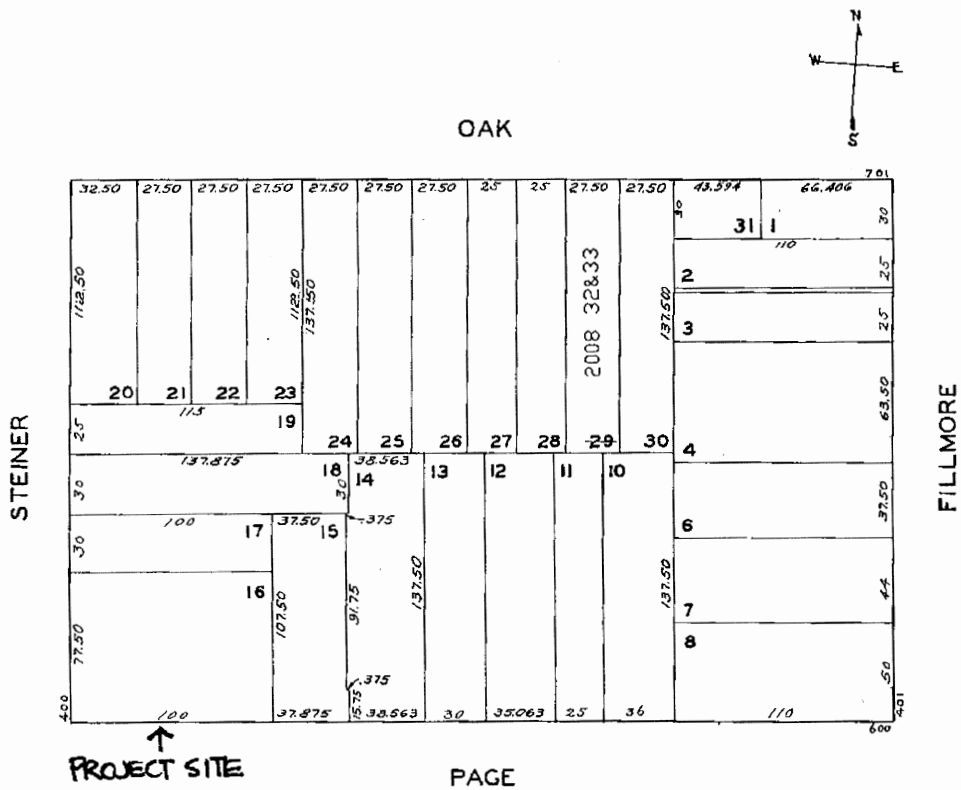
12.0909D

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CITY & COUNTY ASSESSOR 1995

843
W A BLK. 370

Revised 2008

LOTS MERGED
Lots 5, 4, 1944
9, 8, " "
lot 29 into lots 32&33 for 2008 roll



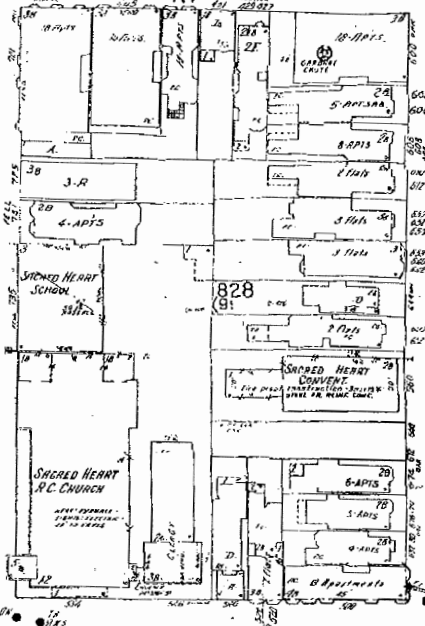
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THESE LAYDOWN MAPS ARE DATED TO THE MID 1990'S
USE ONLY FOR HISTORICAL CONTEXT

342

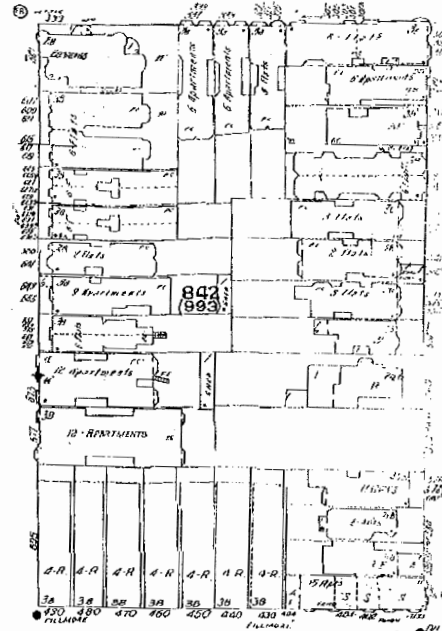
350

WEBSTER



68'9"

68'9" wide



349

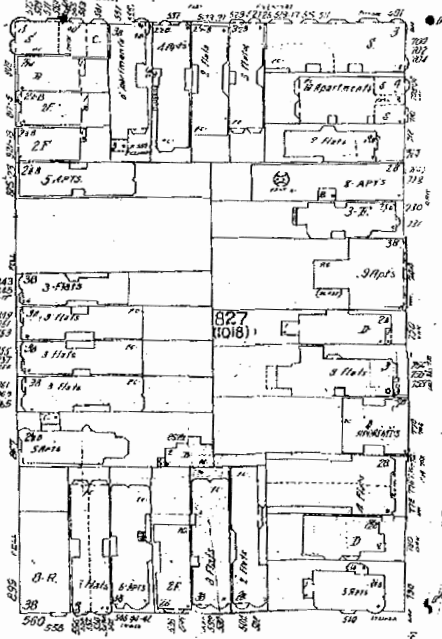
FILLMORE



68'9" wide

351

FELL

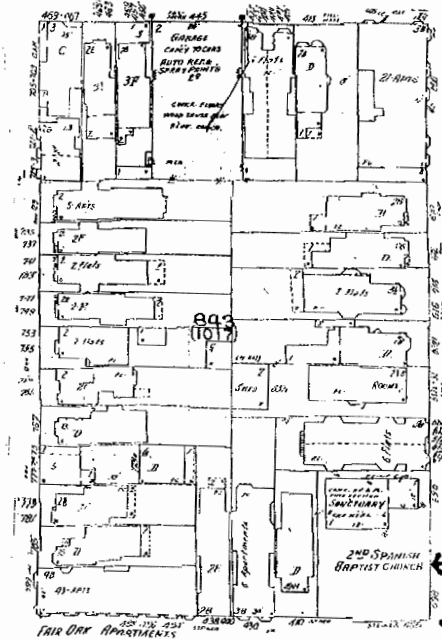


OAK

68'9"

STEINER

359



PAGE

PROJECT SITE

Scale of Feet

690 Page Street

Neighborhood Meeting, Sat. April 19, 2014 10:00 AM

Held at Cafe International, 508 Haight St.

Notes and questions

1. Question regarding the side setback in building adjacent to existing building at 668-678 Page. Neighbor has some pipes in lightwell and is concerned about access for maintenance.

There are side setbacks on our project matching lightwells of adjacent property.

2. What is the timeline for the project?

We estimate that it will take 6-8 months to get approvals and permits, and 16-18 months for the construction phase.

3. Question about curb cuts, a) is it possible to minimize the number of cuts? b) can the curb cuts be aligned in some way to minimize the loss of street parking.

Due to the configuration of the lots, one curb cut per lot is necessary. We have attempted to minimize the loss of street parking by pairing the curb cuts where possible, and slightly offsetting the curb cut from the garage door.

4. Concern about noise from people in roof deck.

The roof deck is provided to meet the open space requirement.

NEIGHBORHOOD MEETING, SATURDAY APRIL 18, 2014
INTERNATIONAL CAFE - SIGN-IN SHEET

<u>NAME</u>	<u>ADDRESS</u>	<u>EMAIL</u>	<u>PHONE</u>
GARY GEE	98 BRADY ST SF. CA 94103	ggee@garygee.com	863-8881
LAWRENCE LI	448 WALLER APT 9	lawrence@bureauof.com	683-6931
Steven Olbush	345 - Fillmore St	sven.edward@gmail.com	577-1827
Arlene Borick	431 Steiner St	atborick@gmail.com	621-5935
EUN lee	1829 Steiner St	anykeewaller@yahoo.com	290-3851
GREG	546 Steiner	kzyder@yahoo.com	415-554-0533
TARA	546 Steiner	tara@faludi.com	415-632-3350
DAVID STALLWOOD	665 PAGE ST	dastallwood@yahoo.de	
Bob Avittal	410 SLEINER	BAVITTAL@YAHOO.COM	
Chris Beahn	674 Page	chbeahn@yahoo.com	

12.0909D

Gary Gee

From: Amy Lee <amyleegov@gmail.com>
Sent: Thursday, May 01, 2014 2:30 PM
To: Lawrence Li
Cc: Gary Gee; Victor Quan
Subject: 690 Page Follow Up

Lawrence

Thanks so much for coming (and helping me coordinate the meeting!) to discuss 690 Page Street. I just wanted to follow up and thank you. Also, I believe that you asked for the sidewalk and vertical view of the elevations. I will have Gary forward a pdf of that information to you as soon as he can.

Thanks again. Please keep in touch.

Best,

Amy

Focus Consulting, Inc.
991 Mission Street
San Francisco, CA 94103
Cell: 415-290-3051
Email: amyleegov@gmail.com



Architecture/Planning/Interiors

98 Brady Street, #8 San Francisco, CA 94103-1239

Tel: 415/863-8881 Fax: 415/863-8879

June 16, 2014

Mr. Lawrence Li
498 Waller Street, Apt #9
San Francisco, CA 94117

**RE: 690 Page Street Street Elevation Drawings
San Francisco, CA**

Dear Mr. Li:

Amy Lee informs me you had request copies of the 690 Page Street Elevation Drawings.
Attached are two (2) architectural drawings:

- Sheet A3.0 dated February 18, 2014 of the Page Street combined elevations and the rear yard elevations.
- Sheet A3.2 dated February 10, 2014 of the Steiner Street elevation for the 698 Page corner building.

These street elevations were reviewed by the Planning Department.

Very truly yours,

A handwritten signature in black ink, appearing to be "Gary Gee". The signature is stylized with loops and a long horizontal stroke at the bottom.

Gary Gee, AIA

cc: Amy Lee

12.0909D



Architecture/Planning/Interiors

98 Brady Street, #8 San Francisco, CA 94103-1239

Tel: 415/863-8881 Fax: 415/863-8879 www.garygee.com

June 3, 2014

Mr. Michel Bechirian
678 Page Street
San Francisco, CA 94117

**RE: 690 Page Street
San Francisco, CA**

Dear Mr. Bechirian:

Thank you for meeting with the project sponsors and myself on Saturday, April 19, 2014 at the International Café on Haight Street.

During this neighborhood meeting you expressed concern over the privacy from the propose roof deck at 680-682-684 Page Street building. We are asking to meet with you from your unit to see if there is any way for us to locate this roof deck to create more privacy. Please contact me at your earliest convenience.

Very truly yours,

A handwritten signature in black ink, appearing to be "Gary Gee", written over a circular scribble.

Gary Gee, AIA

cc: Victor Quan
Urbano Ezquerro

690 PAGE STREET PROJECT MEETING WITH EAST NEIGHBORS

DATE: THURSDAY, JUNE 12, 2014

TIME: 7:00PM

LOCATION: MICHEL BECHIRIAN RESIDENCE; 678 PAGE STREET

ATTENDEES: MICHEL BECHIRIAN, CHRIS BEAHN, GARY GEE

Items discussed:

1. We discussed the location of the 680-682-684 Page Street roof deck. Gary Gee said the size of the roof deck was determined by planning regulations (15 sq ft?). This made it hard to minimize the impact of the deck because there weren't many viable alternatives to locate the deck. Michel said the location whether in the rear or front of the building; the location would not make a difference in the amount of privacy to his unit – Roof top access would provide sight lines into bedrooms, bathrooms and living areas. He can hear noise and music from the tenants when there is a party at the Steiner Street building. I asserted the design of the project – maximizing the number of condo units that could be built on the lot, was the problem. The lot size allows for three buildings with adequate outdoor space without the need for roof decks. A fourth building introduces multiple issues.

A. Gary Gee suggested the project sponsor can create allowable hours for the use of the roof deck in the CCNR's of the new building.

Chris and I asked how this could be enforced in reality.

2. Michel said his wife is a graphic artist and works mostly from home. This is main concern for the loss to light and privacy to his top floor unit.

3. Michel asked if the project sponsor is willing to move the east lightwell wall south to align with his lightwell to allow more light into his master bedroom.

A. Gary Gee said he will ask the project sponsors to consider this change.

4. Michel asked what will be the height of the new adjacent building relative to the height of his building.

A. Gary Gee said the new building will be approximately five feet (5') lower than the current roof lightwell edge of the 678 Page Street building.

5. Michel said the proposed new building at 680-682-684 Page Street will impact his building negatively and lose value.

Clarification: While the proposed project may have a negative effect on the value of the building's west facing units, my primary concern is the proximity of the new building which will encroach on our privacy, and greatly restrict the quality and quantity of light to our units.

6. Michel and Chris ask commented about the time for construction of this project. They wanted to know if the adjacent structure will be built first.

A. Gary Gee said the 680-682-684 Page Street structure will be built first. He was not heard the project sponsor indicate whether all the structures will be built at once.

B. Gary Gee will confirm with the project sponsor on the schedule of construction.

7. Michel requested clarification the location and height of the fire place flues on the roof.

A. Gary Gee will confirm the height and location of these three flues.

8. We agreed the 680-682-684 Page east lightwell will be white in color.

9. Gary Gee suggested that it would be in Michel and Chris's best interest to submit a request for a Discretionary Review. This would ensure their concerns were documented and considered, and may allow an opportunity to reach an agreement with the project owners.

10. Gary Gee asked Michel and Chris if they would consider not submitting a DR if the project sponsor made changes to the design that could be signed by all parties and submitted to SF Planning. Chris and I were non-committal in the absence of any documented change to the plans.

Gary Gee

From: Michel Bechirian <mbussfo@yahoo.com>
Sent: Thursday, July 10, 2014 8:43 AM
To: Gary Gee
Cc: cbeahn@yahoo.com
Subject: Re: 690 Page Street
Attachments: 690 PAGE STREET PROJECT MEETING WITH EAST NEIGHBORS_MB.pdf

Gary,

Thank you for the notes. I have added some comments and included a couple of points you missed.

Regards,
 Michel

From: Gary Gee <GGee@garygee.com>
To: Michel Bechirian <mbussfo@yahoo.com>
Cc: "cbeahn@yahoo.com" <cbeahn@yahoo.com>
Sent: Friday, July 4, 2014 10:10 AM
Subject: RE: 690 Page Street

Michel:

Thank you for your response. I have attached my meeting notes from our June 12, 2014 meeting at your unit.

If you have any other questions or need additional information, please contact me.

Gary Gee, AIA

From: Michel Bechirian [mailto:mbussfo@yahoo.com]
Sent: Wednesday, July 02, 2014 10:36 PM
To: Gary Gee
Cc: cbeahn@yahoo.com
Subject: Re: 690 Page Street

Gary,

Unfortunately we haven't had the opportunity to discuss, but I have discussed with my wife, and we believe it is in our best interest to request a DR of the project. I will submit the paperwork tomorrow.

Regards,
 Michel

On Jul 2, 2014, at 5:15 PM, Gary Gee <ggee@garygee.com> wrote:

Michel:

I am inquiring if you have contacted Chris to discuss the proposed light well revision? It is the preference of the project sponsors to file an agreed revision with the Planning Department prior to the end of the 30 day notification period.

Gary Gee, AIA

Gary Gee Architects, Inc.
98 Brady Street #8
San Francisco, CA 94103-1239
Tel: 415.863.8881 Fax: 415.863.8879
Email: ggee@garygee.com
www.garygee.com

Gary Gee

From: Gary Gee
Sent: Saturday, June 14, 2014 12:20 PM
To: 'mbussfo@yahoo.com'; 'cbeahn@yahoo.com'
Subject: 690 Page Street Neighbor Meeting

Michel & Chris:

Thank you for meeting with me last Thursday, June 12, 2014 at your 678 Page Street property. I sent an email and telephone message to Victor Quan. He is out of town this weekend but I expect to hear from him regarding your proposed east lightwell revision. I should hear from him on Monday. Thank you for your patience in this matter.

Gary Gee, AIA

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San Francisco, CA 94103-1239
Tel: 415.863.8881 Fax: 415.863.8879
Email: ggee@garygee.com
www.garygee.com

REUBEN, JUNIUS & ROSE, LLP

November 4, 2014

By Hand Delivery

President Cindy Wu
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

**Re: 690 Page Street Discretionary Review Request
Planning Case No. 2012.0909
Our File No.: 8723.01**

Dear President Wu and Commissioners:

This office represents Page Steiner Associates LLC, sponsor of a small residential infill development consisting of the construction of four residential buildings (the "Project") on a 7,749 sq. ft. lot located at the northeast corner of Steiner and Page Streets (the "Property"). Supported by the vast majority of neighboring residents, the Project will transform an underutilized lot into much-needed family housing, including a three-bedroom below market rate ("BMR") unit. There are no exceptional or extraordinary circumstances associated with this fully code-compliant infill residential project that warrant discretionary review. We look forward to presenting the Project to you on November 13.

A. Project Description

The proposed project will remove an existing above-grade asphalt parking lot and vacant and deteriorated single-story structure most recently used by a prior owner for assembly space. It will construct four multi-family buildings with three dwelling units in each, for a total of twelve (12) dwelling units, including an on-site BMR unit. Each unit will have three bedrooms, and each building will be a maximum of 40 feet in height.

The Project is completely code-compliant; it requires no exceptions or variances from the Planning Code. The Project is located in an RM-1 Zoning District, which permits up to three dwelling units on each parcel. Due to the uniquely large site for this neighborhood, Project sponsor will subdivide the Property into four parcels, creating a fine-grained development of four separate structures that is not only consistent with prevailing neighborhood character in the project area, but also brings the Project into the Affordable Housing Program.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin

Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Kevlin

Lindsay M. Petrone | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Jared Eigerman^{2,3} | John McInerney III²

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

www.reubenlaw.com

Project plans and renderings are attached as **Exhibit A**. Existing site and surrounding area conditions are attached as **Exhibit B**.

B. Benefits of the Project

The benefits of the Project include the following:

1. Provision of 12 new family-sized housing units on a uniquely large development site for this neighborhood that is consistent with the General Plan, the Planning Code, the Residential Design Guidelines, and the City's goal of 30,000 building new dwelling units by 2020;
2. By subdividing the Property into four lots in a zoning district that permits three dwelling units per lot, the Project will comply with the Affordable Housing Program, and Project sponsor has elected to provide a three-bedroom on-site affordable unit;
3. The Project converts an underutilized site containing a large asphalt parking lot and a dilapidated single-story vacant structure into sustainably-designed housing that is consistent with the existing development pattern of the neighborhood and "completes" the block face;
4. Project sponsor has conducted extensive neighborhood outreach and has the support of a vast majority of its neighbors, and redesigned project features to address the DR requestor's stated concerns. Project sponsor is especially sensitive to the Project's impact on the community: one of its principals lives directly across Steiner Street from the site with her family.

C. Project Sponsor's Neighborhood Presence, Outreach and Support

The Project sponsor has a unique presence in the neighborhood and a distinct interest in ensuring the Project is appropriate for the community. Project sponsor is a partnership between Victor Quan and Arlene Borick. Ms. Borick actually lives with her family directly across Steiner Street from the property in a home they have occupied since 1990. They will look out their front window onto the Project. It goes without saying Project sponsor is especially sensitive to the Project's scale and design.

Neighborhood outreach concerning the Project began nearly two (2) years ago. Project sponsor held the pre-application neighborhood meeting on January 24, 2013, and an additional outreach meeting on April 19, 2014 at the request of the Lower Haight Merchants Association.

Additionally, the principals have reached out to and held numerous one-on-one meetings with neighbors and community members. Sixteen (16) neighbors signed letters pledging support for the Project, including the immediate neighbor to the north, neighbors from each of the buildings across Steiner Street from the Property, and neighbors from two of the buildings across Page Street from it. A map showing neighborhood support by location, as well as copies of these letters, are attached as group **Exhibit C**. Indeed, the DR requestor only occupies one of the six units in the adjacent building; as of this writing and to the best of our knowledge, he is the only person who has voiced opposition to Project sponsor or to Planning Department staff.

D. Changes to the Project Addressing DR Requestor's Stated Complaints

Project sponsor has undertaken a number of different design changes to the easternmost building in order to address the DR requestor's stated concerns regarding views, light, and air. These design changes are explained in detail in the letter attached as **Exhibit D**, and summarized below:

1. The Project's light wells are designed to align completely with the neighboring property's existing light wells, providing more than adequate light and air to the neighboring property. Project sponsor originally proposed an 18-foot light well extending southward from the rear of the easternmost building, but the DR requestor complained it was not long enough. Project sponsor extended this light well southward an additional 7.25 feet. Combined with a second 5' light well further south that matches a smaller light well on the adjacent building, more than half of the building's eastern wall will be set back from the property line.
2. In response to concerns about privacy, the easternmost building's rooftop deck—necessary to meet the Planning Code's open space requirement—was moved against its western property line, and is located as far as possible from the east property line.
3. In order to minimize projections at the roof level, rooftop fireplace flues are no longer part of the building's design.
4. Project sponsor also made additional non-structural design changes, including painting the large northeast light well white and locating a cyclone fence along the east side of the rear yard fence line to allow more light onto the neighboring property.

The DR requestor has made the unusual request that the Project's design be entirely re-oriented from Page Street to Steiner. The DR requestor has not identified any exceptional or extraordinary circumstances that would compel this result. Additionally, this is not feasible or

desirable, particularly after more than two years of planning. Re-orienting would only permit a three-lot subdivision, limiting the Project's permitted number of dwelling units and sending the Project out of the Inclusionary Housing Program. Requiring the project to front Steiner Street would therefore eliminate a three-bedroom inclusionary housing unit ideal for a qualifying family. Also, due to the relatively steep downward slope along Steiner Street, a project fronting Steiner would actually result in a taller massing along that street by up to 10 feet, with no corresponding reduction along Page Street. Please refer to sheets A.3.2 and A.3.2.1 for massing diagrams.

E. The Project is Consistent with Prevailing Neighborhood Character

The Project is designed to be consistent with the prevailing character of the neighborhood. As noted above, the Project is completely code-compliant, meeting requirements for which variances are often sought such as rear yard, open space, and dwelling unit exposure. The City has enacted a policy designed to promote the construction of new family housing, and the Project as designed will do just that.

Project sponsor is committed to building homes with three bedrooms, which is an uncommon if not wholly unique approach to a new housing project in San Francisco. Like many of the buildings adjacent to the Property—including the entire block face across Page Street—the Project's buildings will be constructed to their side lot line, except for the easternmost building's light wells. Because the Project will result in relatively narrow 25-foot by 77.5-foot lots, requiring a side setback would substantially reduce the size of units and could require eliminating bedrooms. Maintaining code compliance, Project sponsor is not attempting to add space in the rear yard through a variance.

Additionally, Project sponsor worked with Planning Department staff to design each building to maintain neighborhood scale along Page Street. Each building is designed to differentiate from the others and acknowledge the existing proportions and architectural massing features of the block and the neighborhood. Although the Project will eliminate an existing parking lot, it will maintain 12 of 13 off-street parking spaces. In addition, the project architect worked with the Planning staff to minimize the loss of street parking with optimal new driveway placements. Only one (1) curb space is lost. Bicycle parking is provided in each garage. The design emphasis of stoop entries for each building reinforces the existing residential entrance patterns along the block face, and creates visual interest at the pedestrian level of the buildings.

F. Conclusion

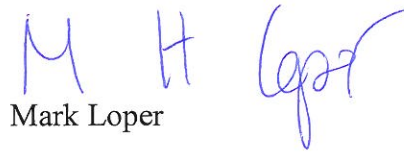
Exercising discretionary review is a special power of the Commission limited to projects with exceptional and extraordinary circumstances. Simply, that is not the case for this fully code-compliant project. The poor condition of the lot is out of character with the rest of the neighborhood. The Project will transform an underutilized and vacant site into family-oriented

President Wu and Commissioners
November 4, 2014
Page 5

housing that “completes” the block, respects the prevailing neighborhood character, and addresses the City’s housing crisis. Project sponsor is and will continue to be an active part of the community, and has widespread support from owners and renters alike. Project design has been changed to address the DR requestor’s concerns, and requires no special exceptions from the Planning code. For these reasons, we request you do not undertake discretionary review and approve the Project.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP


Mark Loper

Enclosures

cc: Vice President Rodney Fong
Commissioner Michael Antonini
Commissioner Rich Hillis
Commissioner Christine D. Johnson
Commissioner Kathrin Moore
Commissioner Dennis Richards
Jonas P. Ionin – Commission Secretary
Christine Lamorena – Planning Department Staff
Arlene Borick
Victor Quan

Building 680-684 Page Street
Building 686-690 Page Street
Building 692-696 Page Street
Building 698 Page Street, -
Units #1, #2, & #3
A Condominium Project

GARY
GEE
AIA

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SPECIFIC WRITTEN AUTHORIZATION OF GARY
GEE ARCHITECTS, INC.

Revisions

	ISSUED FOR REVIEW 04 16 12
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06,06,12	ISSUED FOR REVIEW
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REVISION PER CITY COMMENT
11,04,13

02.03.14	
REVISION PER PLANNING	

DR SUBMITTAL	
11.04.14	

--	--

[illegible]

(L) Elevations
(Scheme 5)

Scale: 1/8" = 1'-0"

A A A

■ ■ ■ ■ ■





SCALE: 1/8"=1'-0"

A1.2

A Condominium Project
San Francisco • California

GARY GEE ARCHITECTS, INC
98 Brady Street, #8
San Francisco, CA 94103
Tel 415/863-8881
Fax 415/863-8879

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GEE ARCHITECTS, INC.

Project No.	Date
12-010	01.10.12

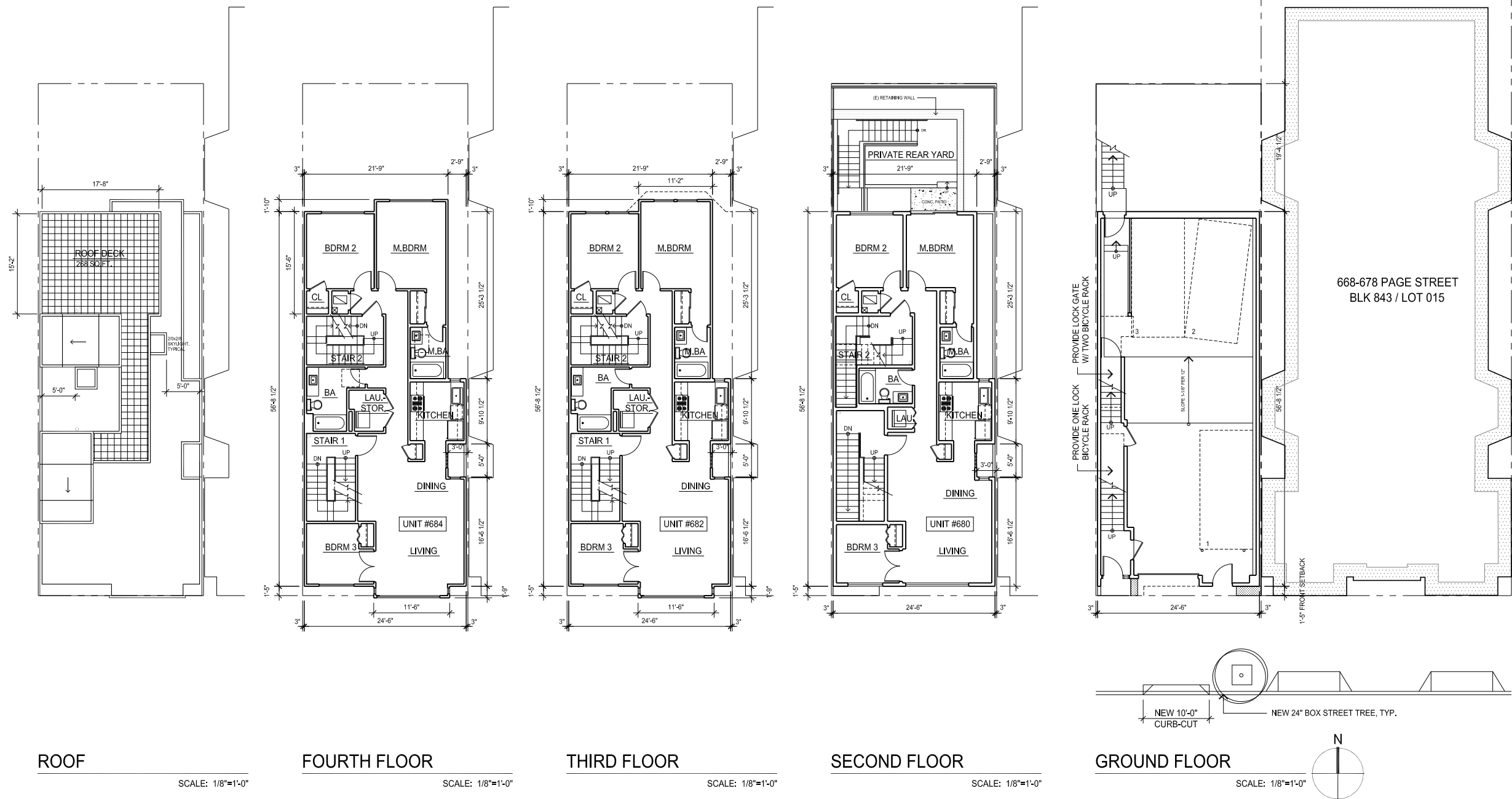
Revisions

No.	Issue / Date
	ISSUED FOR REVIEW 04.16.12
	ISSUED FOR REVIEW 06.06.12
	ISSUED FOR REVIEW 08.22.13
	REVISION PER CITY COMMENT 11.04.13
	REVISION PER PLANNING 02.03.14
	REVISION PER PLANNING 02.10.14
	DR SUBMITTAL 11.04.14

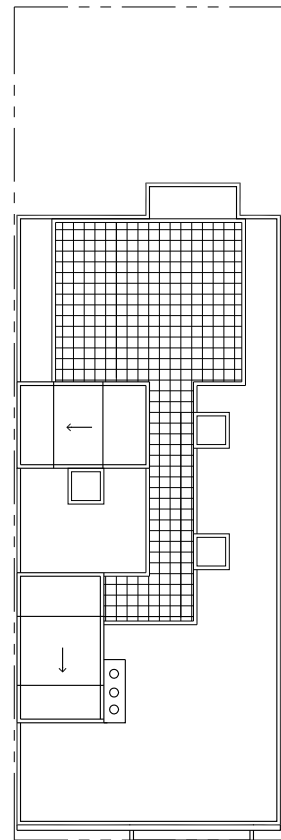
Floor Plan
(Scheme 5)

Scale: 1/8" = 1'-0"

A2.0

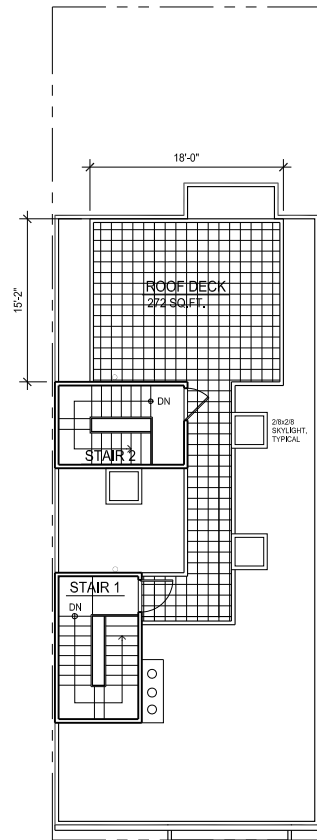


NOTE: PROVIDE 50% OF FRONT SETBACK SURFACE WITH PERMEABLE MATERIAL PER PLANNING CODE SECTION 132 (g). IN ADDITION, A MINIMUM OF 20% FRONT SETBACK SHALL BE LANDSCAPED, THIS CAN BE DEDUCTED FROM THE PERMEABILITY REQUIREMENT.



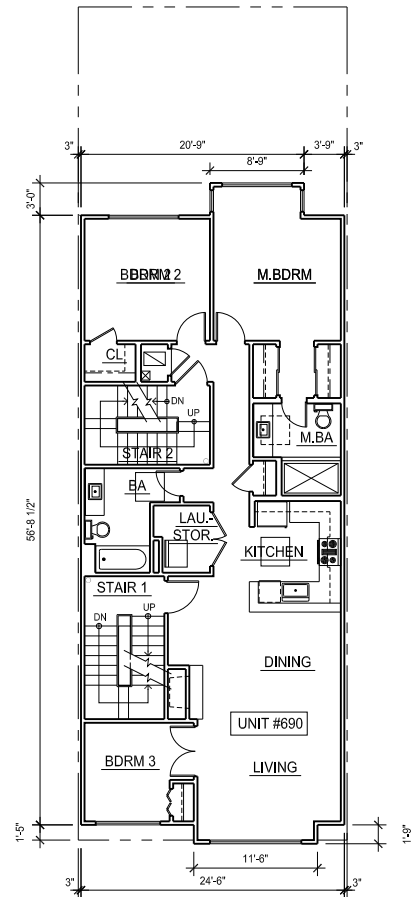
ROOF

SCALE: 1/8"=1'-0"



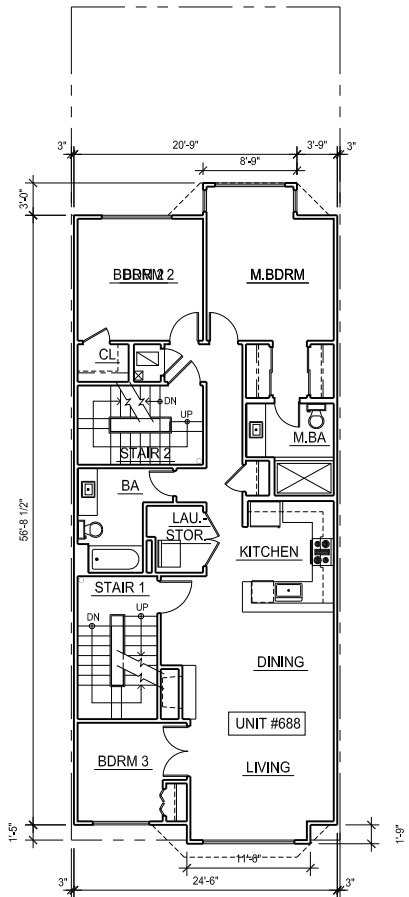
ROOF PENTHOUSE

SCALE: 1/8"=1'-0"



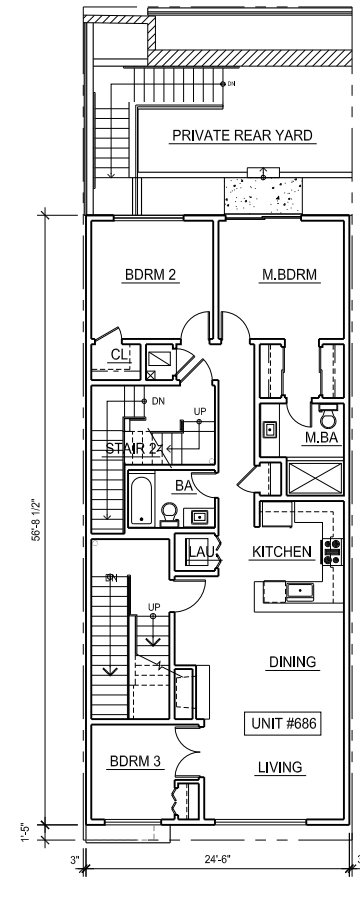
FOURTH FLOOR

SCALE: 1/8"=1'-0"



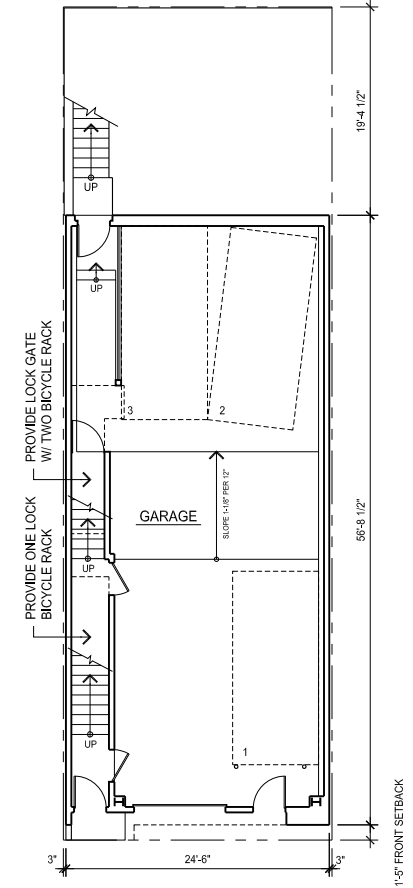
THIRD FLOOR

SCALE: 1/8"=1'-0"



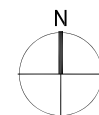
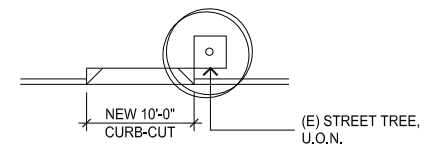
SECOND FLOOR

SCALE: 1/8"=1'-0"



GROUND FLOOR

SCALE: 1/8"=1'-0"



NOTE: PROVIDE 50% OF FRONT SETBACK SURFACE WITH PERMEABLE MATERIAL PER PLANNING CODE SECTION 132 (g). IN ADDITION, A MINIMUM OF 20% FRONT SETBACK SHALL BE LANDSCAPED, THIS CAN BE DEDUCTED FROM THE PERMEABILITY REQUIREMENT.



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Project No. 12-010
Date 01.10.12

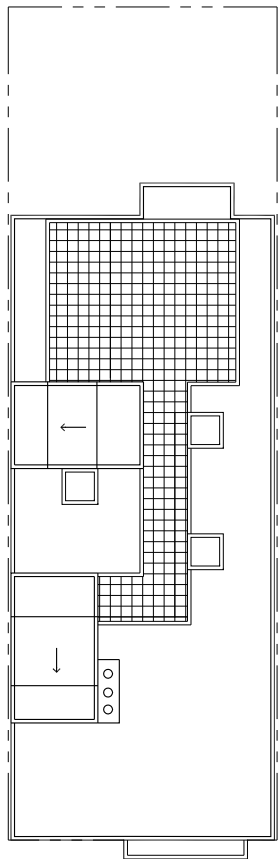
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	REVISION PER PLANNING 02.10.14
	DR SUBMITTAL 11.04.14

Floor Plans
(Scheme 5)

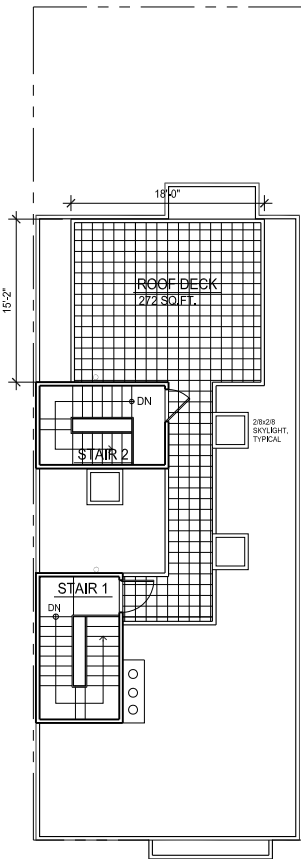
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A2.2



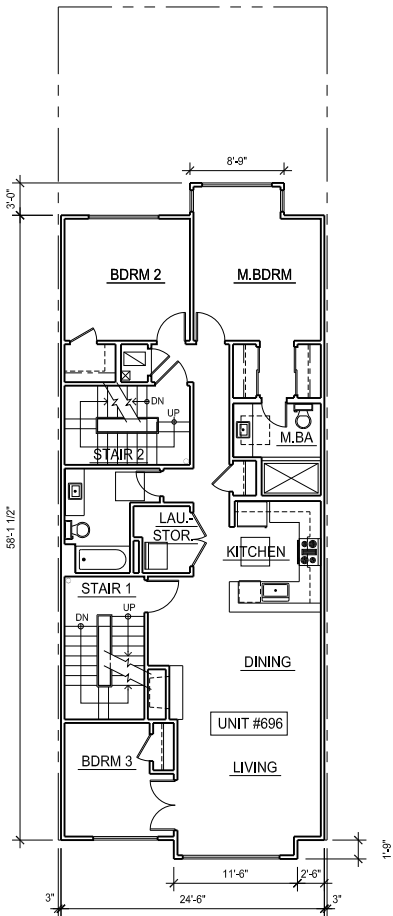
ROOF

SCALE: 1/8"=1'-0"



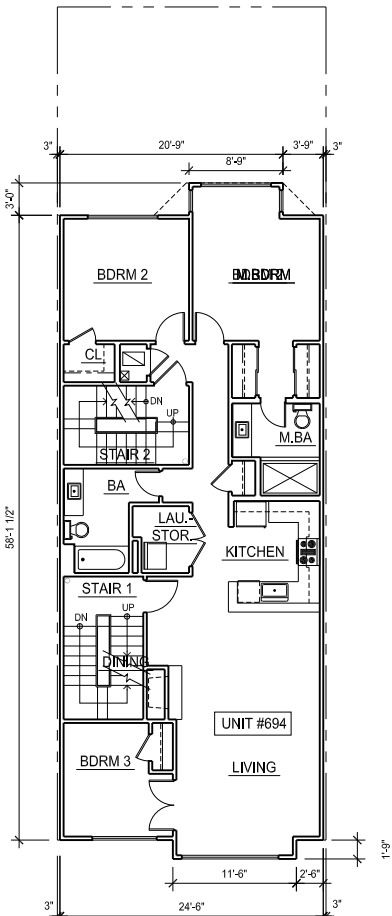
ROOF PENTHOUSE

SCALE: 1/8"=1'-0"



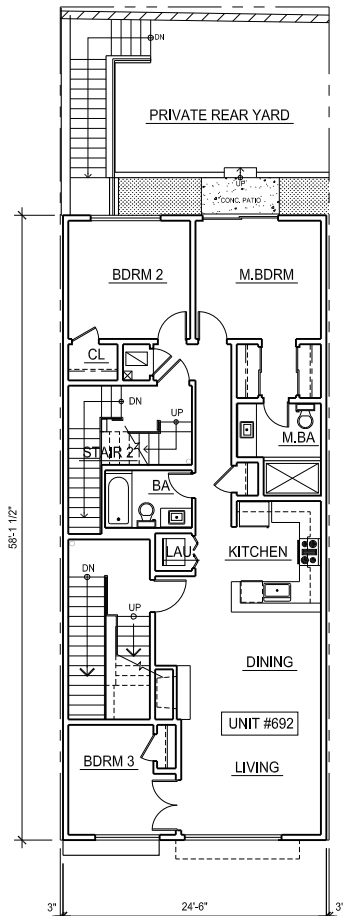
FOURTH FLOOR

SCALE: 1/8"=1'-0"



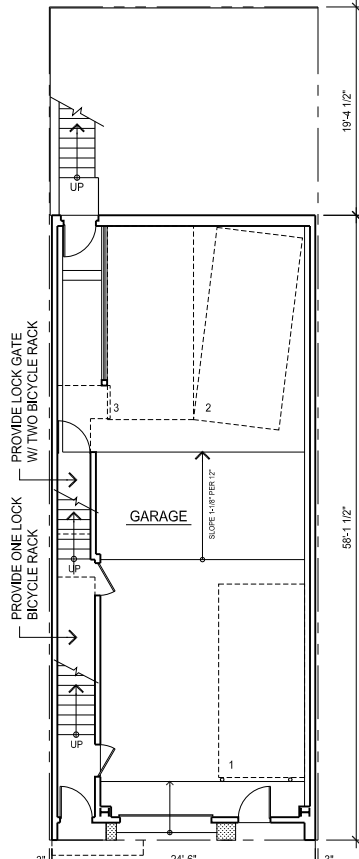
THIRD FLOOR

SCALE: 1/8"=1'-0"



SECOND FLOOR

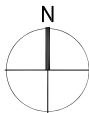
SCALE: 1/8"=1'-0"



GROUND FLOOR

SCALE: 1/8"=1'-0"

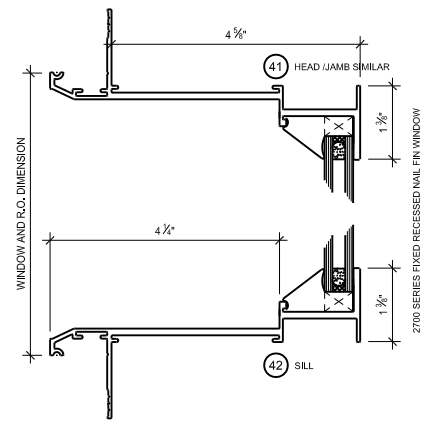
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DETAILS: 700R RECESSED FIXED AND PROJECTED
(AT PAGE STREET FACADE)

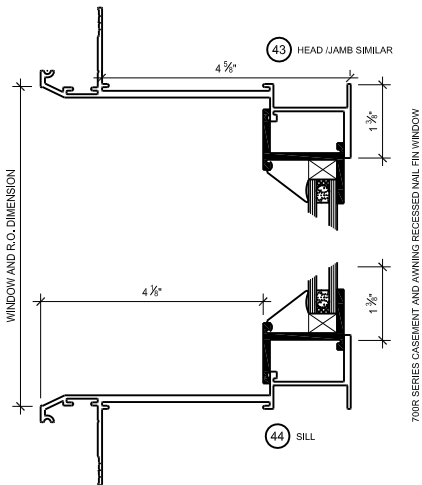
DETAIL 41,42

BONELLI WINDOWS & DOORS
2700 SERIES FIXED RECESSED NAIL FIN WINDOW



DETAIL 43,44

BONELLI WINDOWS & DOORS
2700 SERIES CASEMENT AND AWNING RECESSED NAIL FIN WINDOW



FACADE MATERIALS (#)

1. PAINTED 'SMOOTH' PANEL CANOPY
2. METAL TOWELED 'SMOOTH' CEMENT PLASTER
3. PAINTED 'SMOOTH' 1X6 SIDING, TYPICAL
4. METAL WINDOW, TYPICAL
5. 1'X6' STONE PANEL, 'SANDSTONE TEXTURE'
6. PAINTED METAL DOOR
7. STAINED WOOD SECTIONAL GARAGE DOOR
8. ALUMINUM FRAME / DOOR WITH TEMPER GLASS PANEL
9. GALVANIZED METAL CANOPY WITH TEMPER GLASS PANEL
10. PAINTED METAL RAILING
11. 18" X 6" BLOCK PANEL 'SMOOTH' FACTORY PAINTED
12. STAINED WOOD CANOPY
13. PAINTED 1X4 TRIM
14. 6" DIA. METAL PIPE



690 PAGE STREET REAR ELEVATIONS

SCALE: 1/8"=1'-0"



690 PAGE STREET/SOUTH ELEVATIONS

SCALE: 1/8"=1'-0"

690

Page Street
Project

Building 680-684 Page Street
Building 686-690 Page Street
Building 692-696 Page Street
Building 698 Page Street, -
Units #1, #2, & #3

A Condominium Project

San Francisco • California

GARY
GEE
ARCHITECTS

GARY GEE ARCHITECTS, INC.
98 Brady Street, #8
San Francisco, CA 94103
Tel 415/863-8881
Fax 415/863-8879

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Project No.	Date
12-010	01.10.12

Revisions

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	REVISION PER PLANNING 02.10.14
	REVISION PER PLANNING 02.18.14
	DR SUBMITTAL 11.04.14

Elevations
(Scheme 5)

Scale: 1/8" = 1'-0"

A3.0

Building 680-684 Page Street
Building 686-690 Page Street

A Condominium Project

San Francisco • California

GARY
G E E
A I A

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98 Brady Street, #8
San Francisco, CA 94103
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Project No. 12-010	Date 01.10.12
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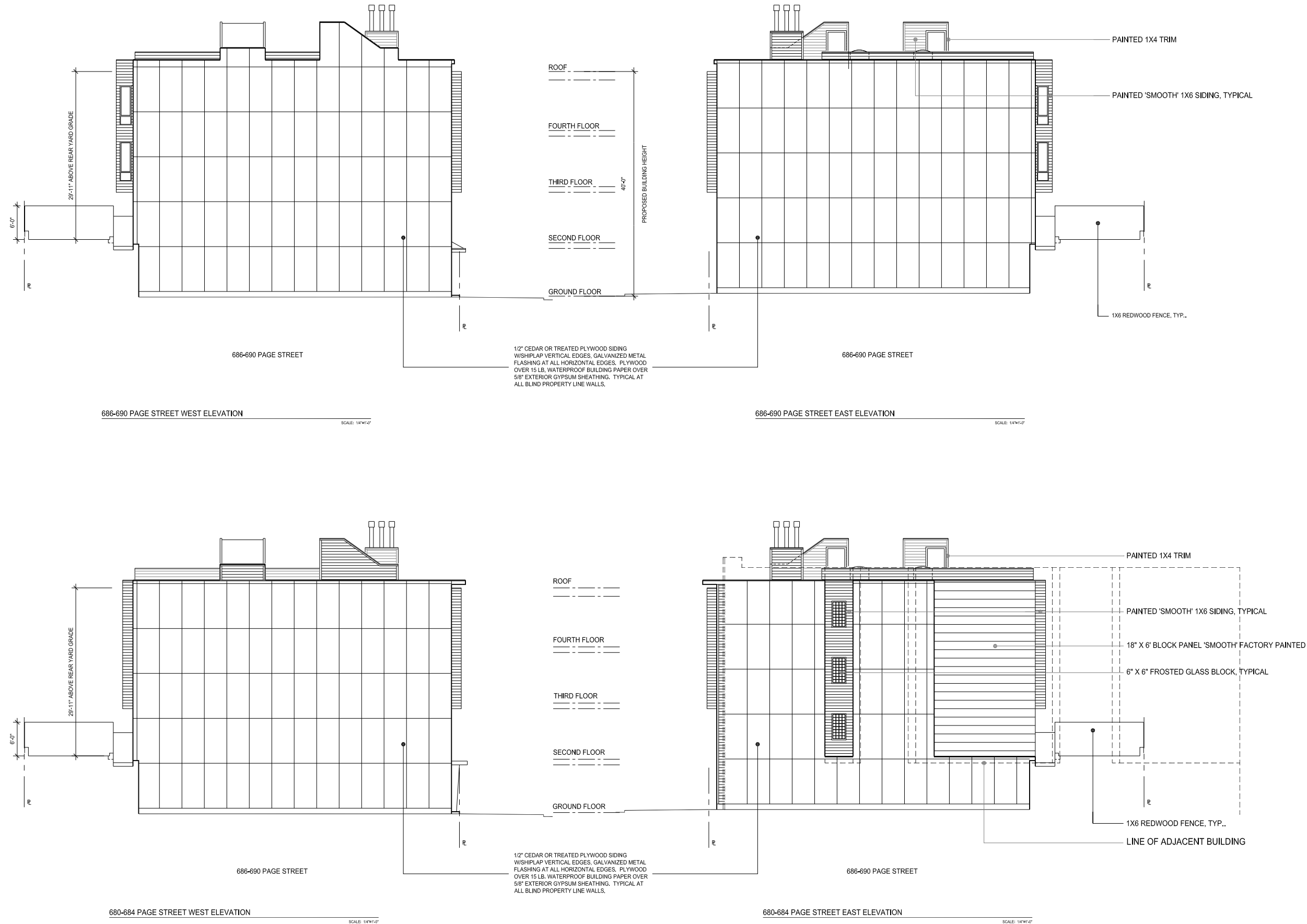
Revisions

[illegible]

Elevations (Scheme 5)

Scale: 1/8" = 1'-0"

A3.1



Building 692-696 Page Street
Building 698 Page Street, -
Units #1, #2, & #3

A Condominium Project

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E ARCHITECTS, INC.

Revisions

[illegible]

Scale: 1/8" = 1'-0"

A3.2



STEINER STREET

FOURTH FLOOR

THIRD FLOOR

SECOND FLOOR

GROUND FLOOR

PROPOSED BUILDING HEIGHT

698 PAGE STREET
UNITS - 1, 2, & 3

1/2" CEDAR OR TREATED PLYWOOD SIDING
W/SHIPLAP VERTICAL EDGES, GALVANIZED METAL
FLASHING AT ALL HORIZONTAL EDGES. PLYWOOD
OVER 15 LB, WATERPROOF BUILDING PAPER OVER
5/8" EXTERIOR GYPSUM SHEATHING. TYPICAL AT
ALL BLIND PROPERTY LINE WALLS.

— 1X6 REDWOOD FENCE, TYP.

1. PAINTED 'SMOOTH' PANEL CANOPY
2. METAL TOWELED 'SMOOTH' CEMENT PLASTER
3. PAINTED 'SMOOTH' 1X6 SIDING, TYPICAL
4. PAINTED METAL WINDOW, TYPICAL
5. 1'X6' STONE PANEL, 'SANDSTONE TEXTURE'
6. PAINTED METAL DOOR
7. STAINED WOOD SECTIONAL GARAGE DOOR
8. STAINED SOLID WOOD DOOR W/ TEMPER GLASS PANEL
9. GALVANIZED METAL CANOPY WITH TEMPER GLASS PANEL
10. PAINTED METAL RAILING
11. 18" X 6" BLOCK PANEL 'SMOOTH' FACTORY PAINTED
12. STAINED WOOD CANOPY
13. PAINTED 1X4 TRIM
14. STAINED WOOD GATE
15. PAINTED WOOD LOUVER PANEL MOUNTED TO TRACK

SCALE: 1/4"=1'-0"

SCALE: 1/4"=1'-0"

SCALE: 100-1

1/2" CEDAR OR TREATED PLYWOOD SIDING
W/SHIPLAP VERTICAL EDGES, GALVANIZED METAL
FLASHING AT ALL HORIZONTAL EDGES. PLYWOOD
OVER 15 LB. WATERPROOF BUILDING PAPER OVER
5/8" EXTERIOR GYPSUM SHEATHING. TYPICAL AT
ALL BLIND PROPERTY LINE WALLS.

SCALE: 1/4"=1'

— PAINTED 1X4 TRIM

— PAINTED 'SMOOTH' 1X6 SIDING, TYP

— 1X6 REDWOOD FENCE, TYP.

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[illegible]

Scale: 1/8" = 1'-0"

A3.2.1

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San Francisco, CA 94103
Tel 415/863-8881
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Project No.	Date
12-010	01.10.12

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[illegible]

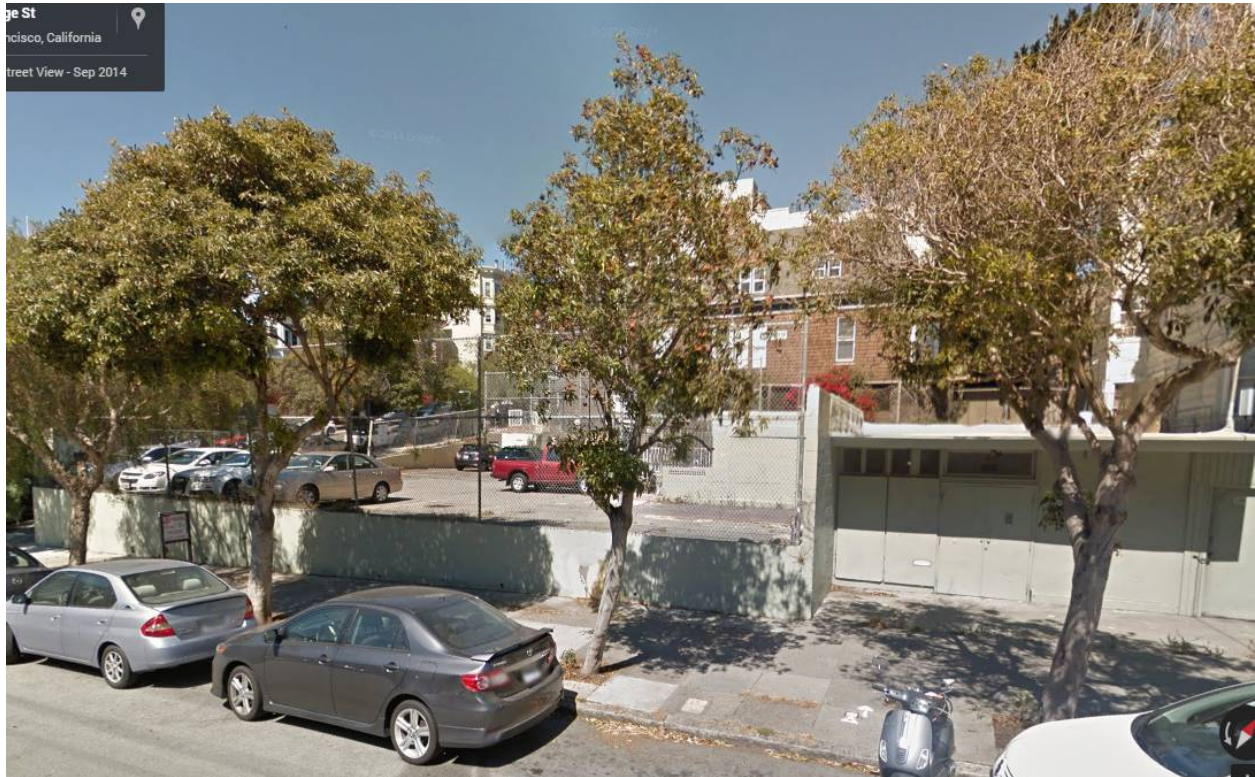
Scale: 1/8" = 1'-0"

SCALE: 1/4"=1'-0"





690 Page Street – Existing Site And Surrounding Area Conditions



690 Page Street (Property), looking north from Page Street



690 Page Street, Looking north from Page Street

690 Page Street – Existing Site And Surrounding Area Conditions



690 Page Street, looking east from Steiner Street



668-676 Page Street, neighboring property to east

690 Page Street – Existing Site And Surrounding Area Conditions



690 Page and 668-678 Page, looking west from Page Street



Block face across Page Street from 690 Page

690 Page Street – Existing Site And Surrounding Area Conditions



399 Steiner Street, across intersection from 690 Page



Block face across Steiner Street from 690 Page

690 Page Street – Existing Site And Surrounding Area Conditions



Neighboring Steiner Street properties, north of 690 Page

690 Page Street Project Support Letters



Key



690 Page Street Project



Neighbors Who Support the Project



Discretionary Review (DR) Requester

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu;

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,

Name

Address

Date

Alan Kh 681
Page 10/21/14

Signed with www.xyzmo.com Signed with www.xyzmo.com

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name	Address	Date
Lenny Semis	681 Page St	11/3/14

Cindy Wu, President

San Francisco Planning Commission

1660 Mission Street, Suite 400

San Francisco, CA 94103

RE: 690 Page Street Project

San Francisco, CA

Dear President Wu;

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street. The proposed project complements the neighborhood and adds needed housing to the City of San Francisco.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Neplokh", with a long horizontal flourish extending to the right.

Eric Neplokh

410 Steiner Street Managing Member

November 3, 2014

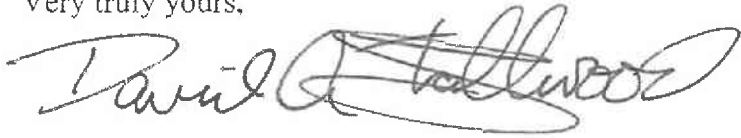
Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express no opposition for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name

Address

Date

DAVID STALLWOOD

10-23-2014

665 PAGE ST #1

SAN FRANCISCO, CA 94117

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name

Address

Date

AUGUSTINE PHILLIPS 340 STEINER OCT 23 2014

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name	Address	Date
Charles Taylor	350 STINKER ST.	S.F. CA. 94117

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name	Address	Date
VIOLA J. YEE	360 STEINER ST.	10/25/14

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name	Address	Date
Arlene Berick, Owner	435-439 Steiner SF 94117	10-22-14

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name

Address

Date

Tamer
Fakhouri, MD

439
Steiner
Street

10/24/14


Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu;

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name

Address

Date

Jeff Davenport 437 Steiner St. 10-22-14

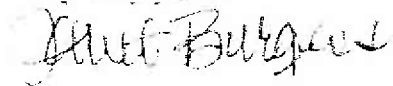
Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 681-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name

Address

Date

JANET BURGESS

499 STEINER ST #4

10/25/2014

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,

Vernon B. Hamilton

Name	Address	Date
VERNON HAMILTON	425 Steiner SAN FRANCISCO	26 Oct. 2014

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu:

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name	Address	Date
Urbano Esquivel	431 Steiner S.F. 94117	10-27-14

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu;

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name	Address	Date
Steven Olbash	345 Fillmore St # 2 San Francisco, 94 117	10/26/14

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu;

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours,



Name

Address

Date

STEVE KLICK

10-22-14

OWNER: 401 STEINER ST.

Cindy Wu, President
San Francisco Planning Commission
1660 Mission Street, Suite 400
San Francisco, CA 94103

RE: 690 Page Street Project
San Francisco, CA

Dear President Wu;

This letter is to express my support for the proposed four (4) buildings at 680-690 Page Street.
The proposed project complements the neighborhood and adds needed housing to the City.

Very truly yours.

Name	Address	Date
John White	376 Fillmore	10-22-14



Architecture/Planning/Interiors

98 Brady Street, #8 San Francisco, CA 94103-1239

Tel: 415/863-8881 Fax: 415/863-8879

September 29, 2014

Mr. Michel Bechirian
678 Page Street
San Francisco, CA 94117

RE: 690 Page Street Project Building Permit Application #2013-05-21-7457
San Francisco, CA 680-682-684 Page Street Building Via Hand Delivered

Dear Mr. Bechirian:

Please find attached the following 24"x 36" architectural drawings dated August 25, 2014 and cover letter dated September 9, 2014 which were sent to your home via USPS earlier this month.

If you have any questions, please contact me.

Very truly yours,

Gary Gee, AIA

cc: Christine Lamorena, Planning Department
Victor Quan
Urbano Ezquerro



Architecture/Planning/Interiors

98 Brady Street, #8 San Francisco, CA 94103-1239

Tel: 415/863-8881 Fax: 415/863-8879

September 9, 2014

Mr. Michel Bechirian
678 Page Street
San Francisco, CA 94117

RE: 690 Page Street Project Building Permit Application #2013-05-21-7457
San Francisco, CA 680-682-684 Page Street Building Via Mail

Dear Mr. Bechirian:

Please find attached the following 24"x 36" architectural drawings dated August 25, 2014 for your review:

Sheet Title

- A1.0 Site Plan, General Notes, Project Information
- A2.0 Floor Plans – Ground Floor, Second Floor and Third Floor
- A2.1 Floor Plans – Fourth Floor, Roof and Roof Penthouse
- A3.0 Elevations – North (rear yard) and South (Page Street) Building Elevations
- A3.1 Elevations – East and West Elevation (property line)
- A4.0 Building Sections AA and BB

Per our last Thursday, June 12, 2014 meeting at your 678 Page Street unit, the following design changes have been done to this building:

1. We discussed moving the roof deck away from the east property line.

Because the Planning Code limits the common open space to 15 feet minimum in width, we were not able to locate the common area roof deck to the southern portion of the roof. The roof deck is still located on the northwest corner of the roof. It was moved against the western property line and is now 6'-9" from the east property line.

The project sponsor is willing to insert roof deck usable hours into the CCNR's. This would limit the useable hours on the roof deck.

2. You asked if the northeast lightwell can be extended south to match the corner of your bedroom bay window.

The south wall of the northeast lightwell was moved 7'-3-1/2" to increase the length from 18' to 25'-3-1/2" in depth. The southern wall of this lightwell now aligns with the corner of your bedroom bay window.

3. You asked clarification to the location and height of the fireplace flues at the roof.

The fireplace flues have been removed on the roof of this building. This was done to minimize the projections at the roof level.

4. We agreed the northeast lightwell should be painted "white" in color.

Architectural drawings sheet A3.1 east elevation has a note indicating the exterior siding in this lightwell is to be painted "white" in color.

In addition to those changes discussed at our June 12, 2014 meeting, we have also modified the architectural drawings with:

5. A cyclone fence is now located along the east side of the rear yard fence line.

This was done to allow per a request from the owner in the lower units and to allow more light into the east adjacent lightwell and west facing windows.

A copy of these drawings will be submitted to Christine Lamorena at the Planning Department. If you have any questions or need any additional information, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Gary Gee', with a large, stylized 'G' and 'E'.

Gary Gee, AIA

cc: Victor Quan
Urbano Ezquerro
Christina Lamorena, Planning Department

1. Our initial approach to this property was to design buildings that would fit into the urban pattern of the blockface. We consider the following conditions:
 - A. The RM-1 Zoning promotes the 25-35 foot building modulation at the facades. Page Street was selected to create 25 foot frontages that emulate the facades on Page and Steiner Streets.
 - B. If Steiner Street was selected as the building frontages, the new buildings could be 10' higher in mass due to the steep upslope of Steiner Street.
 - a. Buildings facing Steiner Street creates nine residential units and no affordable unit. These buildings would have 25.83'x 75' footprints.
 - b. Buildings facing Page Street creates 12 residential units and one affordable unit. These buildings will have 25'x 56'-8-1/2" footprints.
 - C. We met with the Planning staff to discuss building adjacencies to our propose project.
 - a. Planning staff recommended the east side of 680 Page building have a three foot setback on the residential levels two-thirds of the depth of the existing 678 Page west lightwell. The 680 Page new building setback is 3'x 18' is size.
 - b. A second 3'x 5' lightwell was located towards the front of the building to match another 678 Page west lightwell.
 - D. The DR requestor has a higher than 40' building on a wider and deeper lot (37.875'x 107) with six (6) front to rear residential flats. This building has a large footprint and occupies a large portion of their lot.
 - E. Therefore, this project should be approved because:
 - a. The proposed project fits into the block face with its 25' frontages and individual stoop entrances. The building pattern of the block is maintained.
 - b. This proposed project creates 12 residential units and one affordable unit for the City.
 - c. The new 680 Page Street building has been modify with side lightwells to respond to the existing adjacent west lightwells at 678 Page Street.
2. The project sponsor interacted with the DR requestor at the following meetings:
 - Initial neighborhood pre-application meeting on January 24, 2013.
 - Neighborhood meeting on April 17, 2014.
 - Private meeting at his residence on June 12, 2014.
 - A. During the last June 12, 2014 meeting the DR requestor asked if the northeast lightwell at the new 680 Page building could be extended south to allow more light into his bedroom. After this meeting I informed the DR requestor via telephone the project sponsors were willing to extend the 3' wide lightwell 18' from the rear of the building to his requested location.
 - B. We also agreed to paint a bright white color to the lightwell to create more indirect light into this area.

- C. Our office has looked at moving the roof deck to the southern portion of the roof. The common area open space requirements for minimum dimension of 15' limit the location and areas for which this area can be located on the south side of the roof. We offered to move the deck as far south and west as possible to create more privacy to the adjacent 678 Page building.
- 3. As discussed above, the project sponsor has already proposed changes to the new 680 Page Street building as a way to respond to DR requestor concerns. The development of the four (4) buildings facing Page Street provide greater opportunities to the neighborhood and City:
 - A. The 25' facades with individual stoop entrances maintain the neighborhood scale along Page Street. We worked with the Planning staff to design each building to acknowledge the existing proportions and architectural massing features of the blockface and neighborhood.
 - B. 12 residential units with 3 bedrooms 2 baths family style units will add to the housing stock along with one affordable family unit. The building fronting Steiner Street offer less family housing units.
 - C. The two (2) buildings to the south at 690 and 689 Page Street could actually be built five feet (5') higher due to the existing grade of the parking lot. The project sponsor consciously decided to design these buildings to a 40' height from the Page Street sidewalk to maintain a consistent urban design form of buildings along Page Street.
 - D. The proposed rear yards for the buildings facing Page Street will be elevated due to the slope of the block and be part of the lower units in each building. This allows the rear yard to be accessible to a residential unit and creates an open space buffer between the new buildings and the north adjacent 410 Steiner multi-family building. The 410 Steiner Street building is situated on the hill above our Page Street site.

If you have any additional information that is not covered by this application, please feel free to attach additional sheets to this form.

4. Please supply the following information about the proposed project and the existing improvements on the property.

<u>Number of</u>	<u>Existing</u>	<u>Proposed</u>
Dwelling units (only one kitchen per unit –additional kitchens count as additional units)	<u>0</u>	<u>12</u>
Occupied stories (all levels with habitable rooms) ...	<u>1</u>	<u>3</u>
Basement levels (may include garage or windowless storage rooms)	<u>0</u>	<u>1</u>
Parking spaces (Off-Street)	<u>13</u>	<u>12</u>
Bedrooms	<u>0</u>	<u>36</u>
Gross square footage (floor area from exterior wall to exterior wall), not including basement and parking areas....	<u>1,984</u>	<u>17,169</u>
Height	<u>13</u>	<u>40</u>
Building Depth	<u>63'</u>	<u>56'-8 1/2"</u>
Most recent rent received (if any)	_____	_____
Projected rents after completion of project	_____	_____
Current value of property	_____	_____
Projected value (sale price) after completion of project (if known)	_____	_____

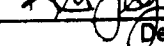
I attest that the above information is true to the best of my knowledge.

_____	_____	_____
Signature	Date	Name (please print)

FILED
San Francisco County Superior Court

JUN -8 2016

CLERK OF THE COURT

BY:  Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

PETER M. OWENS, an individual,
CAROLYN A. RADISCH, an individual,
STEPHEN L. OWENS, an individual,

Plaintiffs,

vs.

IRIS CANADA an individual, OLD
REUBLIC TITLE COMPANY, a California
corporation, and DOES 1-10, inclusive

Defendant.

Case No. CGC-14-543437


**TENTATIVE DECISION
DETERMINING AMOUNT OF
REASONABLE ATTORNEYS FEES
AND COSTS**

The Court orders Defendants pay Plaintiffs' reasonable attorney's fees and costs in the amount of \$169,466.23 within 30 days. The Court found in its order dated April 27, 2016, as a condition to Defendant receiving equitable relief from forfeiture, that Plaintiffs are entitled to compensation pursuant to §3275.

The Court granted the *Defendant's Motion for Relief* pursuant to §3275:

Whenever, by the terms of an obligation, a party thereto incurs a forfeiture, or a loss in the nature of a forfeiture, by reason of his failure to comply with its provisions, he may be relieved therefrom, upon making full compensation to the other party, except in case of a grossly negligent, willful, or fraudulent breach of duty.

Cal.Civ.Code §3275.

The Court's order of April 27, 2016 relied on *Cassinella v. Allen* (1914) 168 Cal. 677 and *Parsons v. Smilie* (1893) 97 Cal. 647.

The Court finds that *Defendant Iris Canada's Memorandum of Points and Authorities in Opposition to Motion for Determination of Reasonable Attorney's Fees* ("Defendant's

1 *Memo*") is an improper motion for reconsideration pursuant to Cal.C.C.P. §1008 because it
2 challenges the legal basis for the order of April 27, 2016, which found that Plaintiffs were
3 entitled to full compensation for attorneys fees and costs as a condition for granting relief for
4 forfeiture.

5 Cal.C.C.P. §1008 (a): "[A]ny party affected by the order may, within 10 days after
6 service upon the party of written notice of entry of the order and based upon new or
7 different facts, circumstances, or law, make application to the same judge or court
8 that made the order, to reconsider the matter and modify, amend, or revoke the prior
9 order."

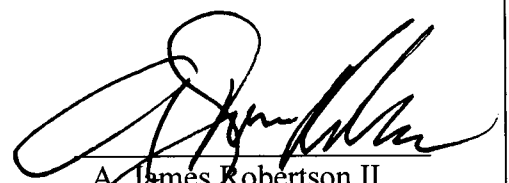
10 The Court granted Defendant's Motion for Relief pursuant to Civil Code §3275 on
11 April 27, 2016. Defendant filed *Defendant's Memo* on June 6, 2016, 40 days after the Court
12 granted Defendant's Motion for Relief. The Court finds this motion for reconsideration
13 untimely pursuant to §1008.

14 The Court also finds that the motion for reconsideration is improper due to a lack of
15 new or different facts, circumstances, or law. In Defendant's original opposition, Defendant
16 did not include authorities that they now include in their current motion. Defendant includes
17 new cases *McNeece v. Wood* and *Freedman v. The Rector*; however, these cases should have
18 been provided in the original motion and do not fit the definition of "new law" as to §1008.

19 Defendant does not dispute the total fees and costs which plaintiffs motion shows was
20 incurred. The Court orders that as a condition to Defendant receiving equitable relief from
21 forfeiture pursuant to Civil Code §3275, Defendant must pay Plaintiff's reasonable attorney's
22 fees to the amount of \$154,813.00, as well as necessary costs in the amount of \$14,653.23.
23 Defendant shall make full payment of these fees to Plaintiffs within 30 days.

24 IT IS SO ORDERED

25 *June 8, 2016*

26 
27 A. James Robertson II
28 Superior Court Judge