



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Condominium Conversion Subdivision

HEARING DATE: MAY 24, 2018
CONSENT CALENDAR

Record No.: **2018-004612CND**
Project Address: 228-230 CLAYTON STREET
Zoning: RH-3 (Residential – House, Three Family) District
40-X Height and Bulk District
Block/Lot: 1210 / 024
Applicant: Rosemarie MacGuinness
Sirkin Law
388 Market Street, Suite 1300
San Francisco, Ca 94111
Staff Contact: David Weissglass – (415) 575-9177
David.Weissglass@sfgov.org
Recommendation: **Approval with Conditions**

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 Project is a Condominium Conversion Subdivision to convert a four-story, five-unit building into residential condominiums. No alterations to the building are proposed other than those that result from the Department of Building Inspection's Physical Inspection Report.

REQUIRED COMMISSION ACTION

The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six residential units for consistency with the General Plan. The proposed project requires Planning Commission approval under Section 3.527 of the Charter and Sections 1332 and 1381 of the Subdivision Code to allow the condominium conversion subdivision of five to six residential unit buildings. Findings must be made that the proposal is consistent with the General Plan and the Subdivision Code.

ISSUES AND OTHER CONSIDERATIONS

- **Existing Tenant & Eviction History:** All units are occupied by owners who intend to purchase their units. While there is evidence of evictions since 2000, there is no known evidence of any evictions on the subject property since May 1, 2005. See Exhibit C for Eviction History documentation.

BASIS FOR RECOMMENDATION

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan. The Project will maintain the existing supply of housing while allowing for home ownership opportunities for San Francisco residents.

ATTACHMENTS:

Draft Motion – Condominium Conversion Subdivision

Exhibit A – Exhibits

Exhibit B – Eviction History Documentation



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Motion

HEARING DATE: MAY 24, 2018

Case No.: **2018-004612CND**
Project Address: **228-230 CLAYTON STREET**
Zoning: RH-3 (Residential-House, Three Family) District
40-X Height and Bulk District
Block/Lot: 1210 / 024
Project Sponsor: Rosemarie MacGuinness
Sirkin Law
388 Market Street #1300
San Francisco, CA 94111
Staff Contact: David Weissglass – (415) 575-9177
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDOMINIUM CONVERSION SUBDIVISION OF A FOUR-STORY, FIVE-UNIT BUILDING INTO RESIDENTIAL CONDOMINIUMS, PURSUANT TO THE GENERAL PLAN AND SUBDIVISION CODE SECTIONS 1386 AND 1396.4, WITHIN A RH-3 (RESIDENTIAL-HOUSE, THREE FAMILY) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 2, 2018, Rosemarie MacGuinness of Sirkin Law (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 four-story, five-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 is a five-unit dwelling.

The Planning Department Commission Secretary is the custodian of records; the File for Case No. 2018-004612CND is located at 1650 Mission Street, Suite 400, San Francisco, California.

On May 24, 2018, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on the Condominium Conversion Subdivision Application No. 2018-004612CND.

Section 1396.4, 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 Section 1396.4. 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 six years prior to the annual April 15 triggering date for conversion and the owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.
- ii. Buildings consisting of five or six units in which at least three of the units have been occupied continuously by three of the owners of record for six years prior to the annual April 15 triggering date for conversion and the owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.

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 and applicable provisions of the Subdivision Code 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 recorded offer of a lifetime lease for all tenants as a condition of final map approval, and requires that no less than 40 percent of the units as represented through the owning or renting tenant of each unit either have signed Intent to Purchase forms or be in a position of accepting the offer for 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 (to mislead or misdirect efforts by agencies of the City in the administration of the Subdivision Code). In the evaluation of displacement of elderly tenants, the Commission shall consider any such displacements over the preceding three years and the reasons for the displacement.

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 approves the Condominium Conversion Subdivision requested in Application No. 2018-004612CND 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 1396.4 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 six years prior to the annual April 15 triggering date for this proposed conversion and the owners of record had a fully executed agreement for an exclusive right of occupancy on or before April 15, 2013.
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.
6. On balance, the Project is consistent 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.

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.

The Project allows San Franciscans to achieve affordable homeownership by providing a category of housing stock for moderate income housing needs. Through the Expedited Conversion Program, properties are eligible to convert from rental units to ownership status so long as owner-occupancy requirements are met.

The property owners will be 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.

7. **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 complies 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.

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

No housing would be removed for this project.

- 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.

8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
9. The Commission hereby finds that approval of the Condominium Conversion Subdivision would 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 **APPROVES Condominium Conversion Subdivision Application No. 2018-004612CND.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on May 2, 2018.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: May 2, 2018

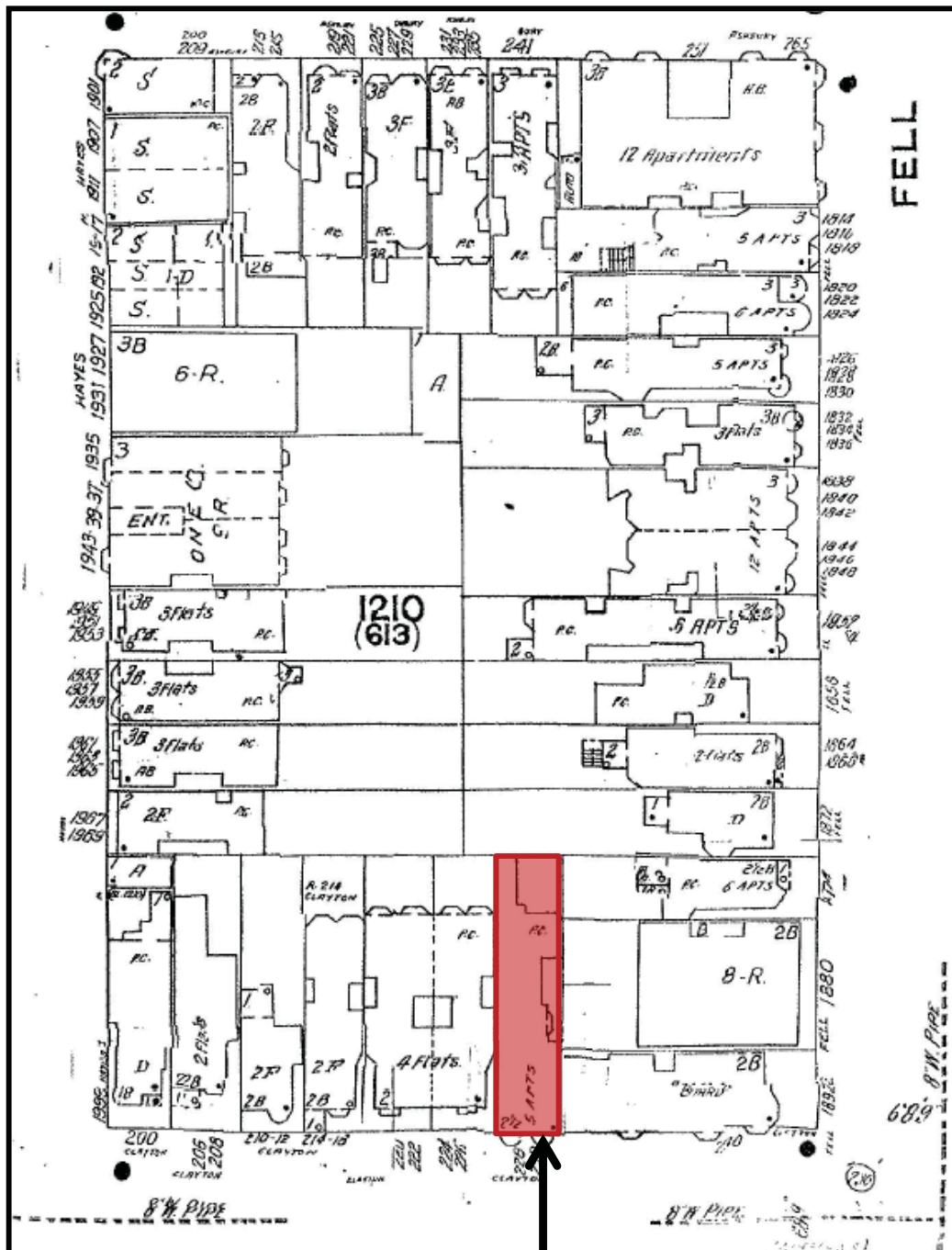
[illegible]

**SAN FRANCISCO
PLANNING DEPARTMENT**



Condominium Conversion Hearing
Case Number 2018-004612CND
 228-230 Clayton Street
 Block 1210 Lot 024

Sanborn Map



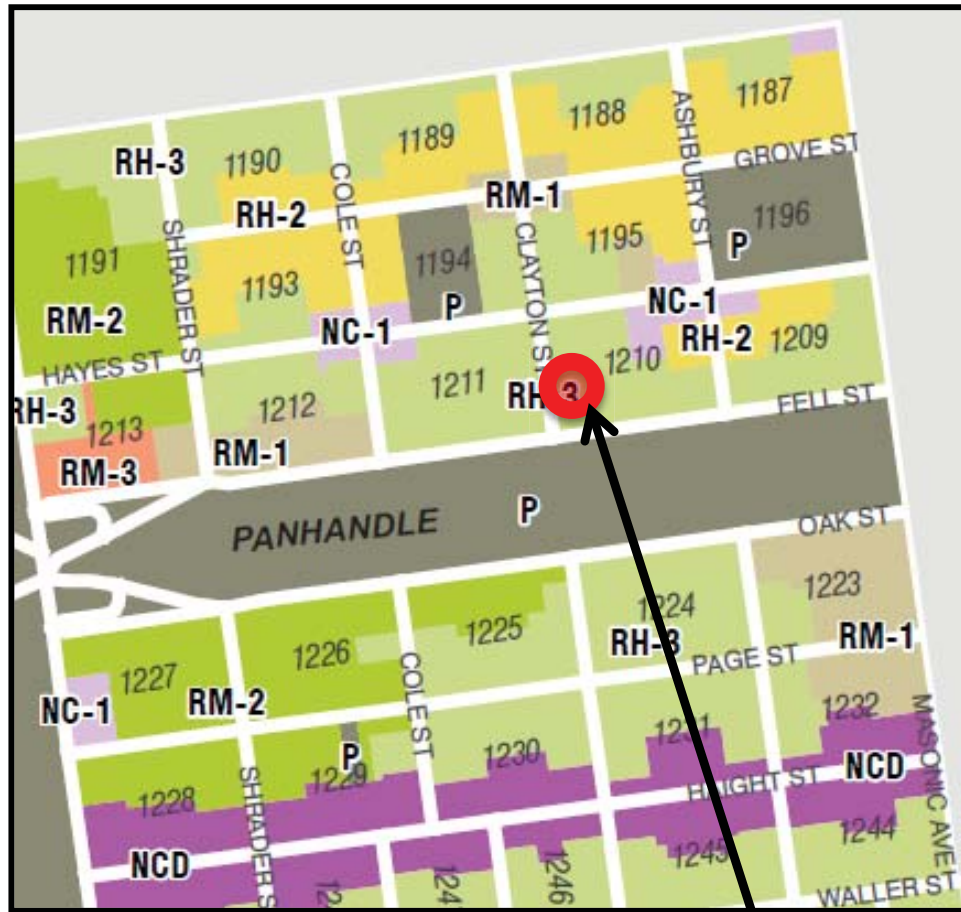
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Condominium Conversion Hearing
Case Number 2018-004612CND
228-230 Clayton Street
Block 1210 Lot 024

Zoning Map



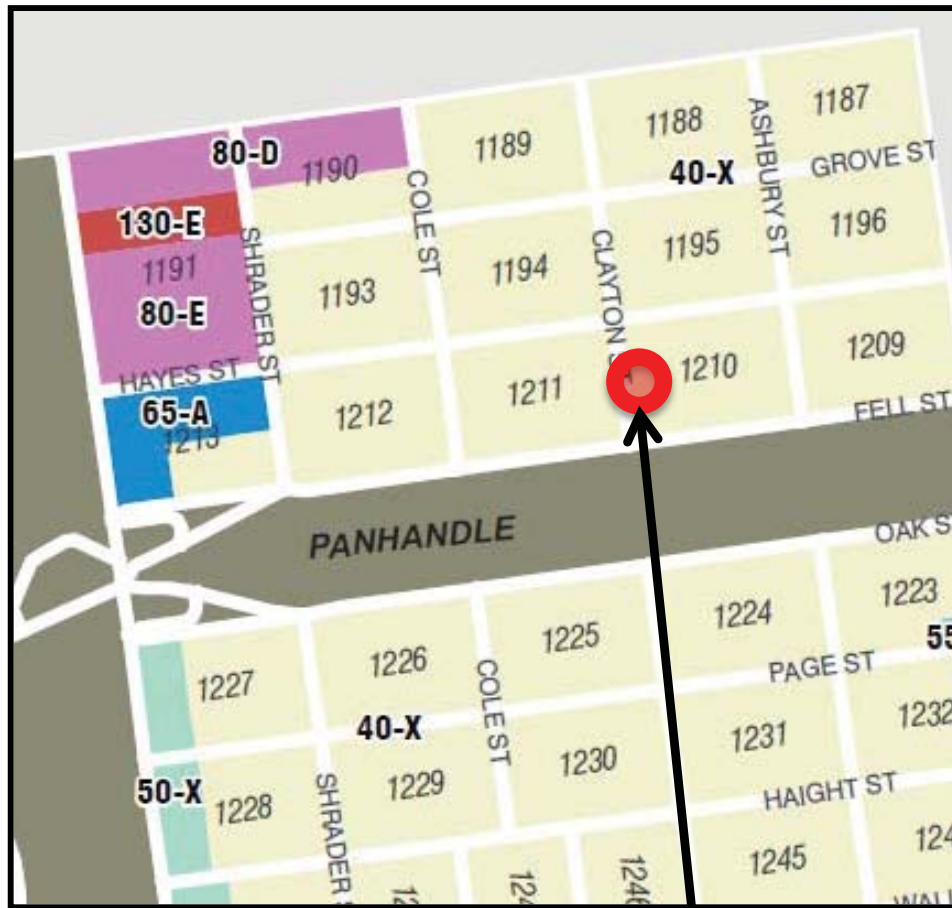
SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Condominium Conversion Hearing
Case Number 2018-004612CND
228-230 Clayton Street
Block 1210 Lot 024

Height and Bulk Map



SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Condominium Conversion Hearing
Case Number 2018-004612CND
228-230 Clayton Street
Block 1210 Lot 024

Aerial Photo



SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Condominium Conversion Hearing
Case Number 2018-004612CND
228-230 Clayton Street
Block 1210 Lot 024

Aerial Photo



SUBJECT PROPERTY

SAN FRANCISCO
PLANNING DEPARTMENT



Condominium Conversion Hearing
Case Number 2018-004612CND
228-230 Clayton Street
Block 1210 Lot 024

Site Photo



SAN FRANCISCO
PLANNING DEPARTMENT



Condominium Conversion Hearing
Case Number 2018-004612CND
228-230 Clayton Street
Block 1210 Lot 024



City and County of San Francisco
San Francisco Public Works - Bureau of Street-Use and Mapping
1155 Market Street, 3rd Floor - San Francisco, CA 94103
sfpublicworks.org • tel 415-554-5810 • fax 415-554-6161



Date: March 9, 2018

Rent Stabilization and
Arbitration Board
25 Van Ness Avenue, Suite 320
San Francisco, CA 94102-6033

Project ID: 9607			
Project Type: 5 Units Condo Conversion			
Address#	StreetName	Block	Lot
228 - 230	CLAYTON ST	1210	024
Tentative Map Referral			

Attention Van Lam

Pursuant to Sections 1359(d), 1396.2(a) & (b) and 1396.3(1) of the City and County of San Francisco Subdivision Code concerning building eviction status, the list below is submitted to your Department for review of any evictions on or after January 1, 2000. Under the provisions of the Subdivision Map Act and the City and County of San Francisco Subdivision Code, your Department must respond to the Bureau of Street-Use and Mapping within 30 days of the date of this letter. Failure to do so constitutes automatic approval from your department. Under these same state and local codes, DPW is required to approve, conditionally approve, or disapprove the above referenced map within 50 days of the receipt of the application. Thank you for your timely review of this Tentative Map.

Sincerely,
ADRIAN
VERHAGEN

Digitally signed by ADRIAN VERHAGEN
DN: cn=ADRIAN VERHAGEN, o=DPW,
BSM, email=adrian.verhagen@sfdpw.org,
c=US
Date: 2018.03.13 18:07:21 -0700

Bruce R. Storrs, P.L.S.

City and County Surveyor

* 2 Alleged Wrongful
Evictions filed on:
3/4/02 4/23/02



No Eviction(s) have occurred on or after January 1, 2000.



An Eviction has occurred on or after January 1, 2000.
See attached documents.

Date(s) of
Eviction:

6-19-02

This confirms that the Rent Stabilization and Arbitration Board has reviewed the above buildings for any eviction on or after January 1, 2000. If evictions have occurred supporting documents have been attached to this form.

processed on
Date 3/23/18

Signed

Van Lam

Rent Stabilization and Arbitration Board

request received 3/23/18

3/23/2018

☐ Lead Remediation

☐ Development Agreement

☐ Good Samaritan Tenancy Ends

☐ Roommate Living in Same Unit

☐ Other

☐ Severance of Housing Service

[illegible]

3/23/2018

<input type="checkbox"/> Non-payment of Rent	<input type="checkbox"/> Unapproved Subtenant	<input type="checkbox"/> Lead Remediation
<input type="checkbox"/> Habitual Late Payment of Rent	<input type="checkbox"/> Owner Move In	<input type="checkbox"/> Development Agreement
<input type="checkbox"/> Breach of Lease Agreement	<input type="checkbox"/> Condo Conversion	<input type="checkbox"/> Good Samaritan Tenancy Ends
<input type="checkbox"/> Nuisance	<input type="checkbox"/> Demolition	<input type="checkbox"/> Roommate Living in Same Unit
<input type="checkbox"/> Illegal Use of Unit	<input type="checkbox"/> Capital Improvement	<input type="checkbox"/> Other
<input type="checkbox"/> Failure to Sign Lease Renewal	<input type="checkbox"/> Substantial Rehabilitation	
<input type="checkbox"/> Denial of Access to Unit	<input checked="" type="checkbox"/> Ellis Act Withdrawal	<input type="checkbox"/> Severance of Housing Service

[illegible]

3/23/2018

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<input type="checkbox"/> Non-payment of Rent	<input type="checkbox"/> Unapproved Subtenant	<input type="checkbox"/> Lead Remediation
<input type="checkbox"/> Habitual Late Payment of Rent	<input type="checkbox"/> Owner Move In	<input type="checkbox"/> Development Agreement
<input type="checkbox"/> Breach of Lease Agreement	<input type="checkbox"/> Condo Conversion	<input type="checkbox"/> Good Samaritan Tenancy Ends
<input type="checkbox"/> Nuisance	<input type="checkbox"/> Demolition	<input type="checkbox"/> Roommate Living in Same Unit
<input type="checkbox"/> Illegal Use of Unit	<input type="checkbox"/> Capital Improvement	<input type="checkbox"/> Other
<input type="checkbox"/> Failure to Sign Lease Renewal	<input type="checkbox"/> Substantial Rehabilitation	
<input type="checkbox"/> Denial of Access to Unit	<input checked="" type="checkbox"/> Ellis Act Withdrawal	<input type="checkbox"/> Severance of Housing Service

[illegible]

3/23/2018



☐ Lead Remediation

☐ Development Agreement

☐ Good Samaritan Tenancy Ends

☐ Roommate Living in Same Unit

☐ Other

☐ Severance of Housing Service

[illegible]

3/23/2018

230 Number	Clayton Street Name	Street Suffix	2 Unit#	M020836 Eviction_ID	06/19/02 File Date	
228-230 Clayton Street Building		5 # of Units	94117 Zip	<input type="checkbox"/> OMI 37.9(i) Estoppel Filed?		
			1900 Yr Built	<input type="checkbox"/> Protected Status Claimed		
Complex				<input type="checkbox"/> OMI Constraints Until Date:		
				<input type="checkbox"/> Additional 37.9C Relocation Claim Filed?		

<input type="checkbox"/> Non-payment of Rent	<input type="checkbox"/> Unapproved Subtenant	<input type="checkbox"/> Lead Remediation
<input type="checkbox"/> Habitual Late Payment of Rent	<input type="checkbox"/> Owner Move In	<input type="checkbox"/> Development Agreement
<input type="checkbox"/> Breach of Lease Agreement	<input type="checkbox"/> Condo Conversion	<input type="checkbox"/> Good Samaritan Tenancy Ends
<input type="checkbox"/> Nuisance	<input type="checkbox"/> Demolition	<input type="checkbox"/> Roommate Living in Same Unit
<input type="checkbox"/> Illegal Use of Unit	<input type="checkbox"/> Capital Improvement	<input type="checkbox"/> Other
<input type="checkbox"/> Failure to Sign Lease Renewal	<input type="checkbox"/> Substantial Rehabilitation	
<input type="checkbox"/> Denial of Access to Unit	<input checked="" type="checkbox"/> Ellis Act Withdrawal	<input type="checkbox"/> Severance of Housing Service

[illegible]

3/23/2018

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[illegible]

3/23/2018

[illegible]

Eviction Report Tracker

Case # **E020366** File Date **3/4/02** Assigned on Assigned to **Rod Wong** Status **Case Closed** 

Players				
Name (First, MI, Last)	Primary Phone	Other Phone	Role	Active
Curtis Burns	(415) 468-9066	(415) 235-7716	Tenant Petitioner	<input type="radio"/> Yes <input checked="" type="radio"/> No
Johnny Lewis		(415) 752-2638	Master Tenant	<input type="radio"/> Yes <input checked="" type="radio"/> No
Sally Morin	(415) 392-2800		Landlord Attorney	<input type="radio"/> Yes <input checked="" type="radio"/> No
				<input type="radio"/> Yes <input type="radio"/> No

Just Causes

- | | | |
|--|---|--|
| <input type="checkbox"/> Non-payment of Rent | <input type="checkbox"/> Relative Move In | <input type="checkbox"/> Master Tenant Living in Same Unit |
| <input type="checkbox"/> Habitual Late Payment of Rent | <input type="checkbox"/> Condo Conversion | <input type="checkbox"/> Owner Living in Same Unit |
| <input type="checkbox"/> Breach of Lease Agreement | <input type="checkbox"/> Demolition | <input type="checkbox"/> Foreclosure |
| <input type="checkbox"/> Nuisance | <input type="checkbox"/> Removal from Housing Use | <input type="checkbox"/> Section 8 |
| <input type="checkbox"/> Illegal Use of Unit | <input type="checkbox"/> Capital Improvement | <input type="checkbox"/> Sale of property |
| <input type="checkbox"/> Failure to Sign Lease Renewal | <input type="checkbox"/> Substantial Rehabilitation | <input type="checkbox"/> No Just Cause |
| <input type="checkbox"/> Denial of Access to Unit | <input type="checkbox"/> Ellis Act Withdrawal | <input type="checkbox"/> No Advice Clause |
| <input type="checkbox"/> Unapproved Subtenant | <input type="checkbox"/> Lead Remediation | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Owner Move In | <input type="checkbox"/> Development Agreement | <input type="checkbox"/> Oral Notice |
| | <input type="checkbox"/> Other | <input type="checkbox"/> Good Samaritan Tenancy Ends |

Attachment Sheet

The tenant contends that the Notice to Vacate is defective as it fails to comply with the requirements of Rent Ordinance § 37.9 (14) (c). Please inform yourself about the requirements of the San Francisco Rent Ordinance.

3/23/2018

[illegible]

Eviction Report Tracker

Case # **E020685** File Date **4/23/02** Assigned on **2/25/02** Assigned to **Maria Martinez** Status **Petition Closed**

Players

Name (First, MI, Last)	Primary Phone	Other Phone	Role	Active
Johnny L. Lewis		(415) 752-2312	Tenant Petitioner	<input type="radio"/> Yes <input checked="" type="radio"/> No
Mike Plotkowski			Landlord Respondent	<input type="radio"/> Yes <input checked="" type="radio"/> No
Virginia Giamo			Landlord Respondent	<input type="radio"/> Yes <input checked="" type="radio"/> No
Andrew M. Zacks	(415) 956-8100		Landlord Attorney	<input type="radio"/> Yes <input checked="" type="radio"/> No
Denise Leadbetter			Landlord Attorney	<input type="radio"/> Yes <input checked="" type="radio"/> No
				<input type="radio"/> Yes <input type="radio"/> No

Just Causes

- | | | |
|--|---|--|
| <input type="checkbox"/> Non-payment of Rent | <input type="checkbox"/> Relative Move In | <input type="checkbox"/> Master Tenant Living in Same Unit |
| <input type="checkbox"/> Habitual Late Payment of Rent | <input type="checkbox"/> Condo Conversion | <input type="checkbox"/> Owner Living in Same Unit |
| <input type="checkbox"/> Breach of Lease Agreement | <input type="checkbox"/> Demolition | <input type="checkbox"/> Foreclosure |
| <input type="checkbox"/> Nuisance | <input type="checkbox"/> Removal from Housing Use | <input type="checkbox"/> Section 8 |
| <input type="checkbox"/> Illegal Use of Unit | <input type="checkbox"/> Capital Improvement | <input type="checkbox"/> Sale of property |
| <input type="checkbox"/> Failure to Sign Lease Renewal | <input type="checkbox"/> Substantial Rehabilitation | <input type="checkbox"/> No Just Cause |
| <input type="checkbox"/> Denial of Access to Unit | <input type="checkbox"/> Ellis Act Withdrawal | <input type="checkbox"/> No Advice Clause |
| <input type="checkbox"/> Unapproved Subtenant | <input type="checkbox"/> Lead Remediation | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Owner Move In | <input type="checkbox"/> Development Agreement | <input type="checkbox"/> Oral Notice |
| | <input type="checkbox"/> Other | <input type="checkbox"/> Good Samaritan Tenancy Ends |

Attachment Sheet

The longterm tenant since June 1986, alleged that he is a disabled person, and that repairs had to be made to his unit. The tenant alleges that the eviction is in bad faith.

Rent Ordinance §37.9(c) requires that the ground(s) enumerated in the eviction notice must be "the landlord's dominant motive for recovering possession" (emphasis supplied). **WARNING TO LANDLORD:** Rent Ordinance §§37.9 (e) and (f) provide for substantial criminal and civil penalties for ANY person who endeavors to recover possession or recovers possession in violation of Rent Ordinance §37.9(a). **IN ADDITION, the landlord should be aware that it is a serious violation of state and local law for a landlord to retaliate - or threaten to retaliate - against a tenant for the tenant's peaceful exercise of any legal right(s). See, e.g., Rent Ordinance § 37.9(d) and California Civil Code § 1942.5.**