

***Regular Meeting of the
Abatement Appeals Board***

May 21, 2025

***Agenda Item C
Appellant Statement***



ABATEMENT APPEALS BOARD

City & County of San Francisco
49 South Van Ness Avenue, San Francisco, California 94103-2414

NOTICE OF Rescheduled AAB HEARING

3/31/2025

SUN BONNIE
SUN GIFFORD
116 MERCED AVE
SAN FRANCISCO CA, 94127

Re: 116 Merced Ave AAB Appeal No. 6946

Dear Parties:

The Abatement Appeals Board (AAB) received Appellant SUN BONNIE completed appeal form, appealing Director's Order No. 201973412-A.

This matter has been rescheduled for hearing before the AAB on **5/21/2025 at 9:30 AM, in Room 416, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA.**

Information about the hearing procedures are set forth in the AAB's Bylaws and Procedural Rules, available on the AAB's webpage. [Adopted 1-19-22 - AAB Bylaws and Rules of Procedure .pdf \(sfdbi.org\)](https://www.sfdbi.org/Adopted-1-19-22-AAB-Bylaws-and-Rules-of-Procedure.pdf)

Under Procedural Rule III.D, the Appellant may submit a written statement setting forth their arguments and evidence in support of the appeal. The written statement must be submitted to the AAB Secretary by email at dbi.aab@sfgov.org or in hardcopy no later than **(4/30/2025- 21 days before the hearing date)**. Please consult the AAB's Procedural Rules for more detailed information about the written statement.

The Department of Building Inspection must submit its report setting forth the procedural history and basis for the Order of Abatement and any assessment of costs by **(5/14/2025- 7 days before the hearing date)**.

When submitted, the AAB Secretary will forward a copy of a party's written filing to the opposing party.

If you have questions about this process, please contact CES at 628-652-3430 or via e-mail at dbi.aab@sfgov.org. Do not contact any AAB member directly.

Very Truly Yours.

A handwritten signature in blue ink, appearing to read "Matthew Greene".

Matthew Greene
Secretary,
Abatement Appeals Board

Hard copy Mail to: 49 South Van Ness Ave 4th Fl.
San Francisco, CA 94103



GOLDSTEIN, GELLMAN, MELBOSTAD & HARRIS

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April 30, 2025

VIA EMAIL ONLY

dbi.aab@sfgov.org

Abatement Appeals Board
Evita Chavez, President
49 South Van Ness
Suite 400
San Francisco, CA 94103

Re: 116 Merced Ave AAB Appeal No. 6946

Dear President Chavez and Board Members:

We represent the ownership of the building at 116 Merced, including Ms. Bonnie Sun. Ms. Sun filed an appeal of the Order of Abatement, asking that you take review under your jurisdiction to allow late appeals. This letter also asks the Board to accept a filing that was not made within the original time period for appeal of such an order. This letter requests that our client be given a six-month extension to finalize her attempt to remove an alleged illegal unit. My client also requests an itemization of the penalty amount shown in the Order of Abatement, and of any other penalties she may not know about beyond that. She also believes that a majority of the delays represented by the penalties were due to confusion created by the Building and/or Planning Departments' change of regulations regarding illegal units. She also wishes to comment, after receiving an itemization concerning those amounts she deems to be appropriate.

The Planning Department has approved both the removal of the unit, and the legalization of the unit. But neither has been approved by the Building Department as per the alteration permits filed. She is pursuing the alteration permit to remove, not the one to legalize. Consultants on Title 24 and the green code have just finished their work and Ms.

Sun's architect has to finish incorporating their changes in the plans (insulation values, notes, etc.) Vincent Page of DCP last week sent an email advising he would provide until May 26th, 2025, for submission.¹

On December 1, 2022, the Planning Department notified us that approval was given to legalize, in a Planning Approval Letter.

December 6, 2019, BPS No 2019.12.06.8942 was filed to legalize the UDU. However, our client did not pick up the permit to start work to legalize, after the client reviewed the cost to legalize with professionals, including her architect, and could not afford the higher yearly taxes that would be imposed upon completion of the improvements to be made through legalization. The estimate was approximately \$300,000 for construction as of the start of 2022 and is almost \$500,000 today. My client suggested she may prefer to sell to allow the future owner to legalize the unit but was told by real estate brokers that it could not be sold due to the pending NOV, and now the Order of Abatement which also prevents any refinancing to obtain money to do the work. My client was 70 years old at that time and is now 72. And as explained below, is partially disabled.

On June 6, 2022, Mathew Chandler informed her that she could not live in the two units to be legalized. This was a mistake of the law, as the law allows a property owner to keep one of two legal units vacant, and use it instead as an area for guests, as a home office, as storage, and for an exercise room. We are not sure what he meant, but this upset the client greatly.

As of the middle of 2022, my client was in Jacksonville, Florida, for an operation on one eye, followed by another. Her health issues were exacerbated by multiple pins in her feet from a fall, and then COVID. The problems with her feet caused her to need a wheelchair at that time and thereafter. As she was in a wheelchair, she had to stop working as a dental hygienist in Marin County.

¹ An NSR on title was recorded by the property owner as a condition of the Planning Department's approval of BPA No. 201912068942, a not-yet-issued building permit proposing to legalize the unauthorized unit per Ordinance 43-14. That NSR will need to be rescinded if the property owner proceeds with removing the unit, as they received approval to do earlier this year under Project Application No. 2019-016589PRJ.

Vincent Page of the Planning Department asked for two sets of plans (1) showing the unit to be legalized and (2) to show removal of the unit. She was very confused as to why she was being asked to file inconsistent applications and preparing two completely different plans started to get expensive.

Vincent Page notified the client that if the unit was to be removed, she would have to show construction costs to legalize and look at whether the costs would exceed the gain in value from legalization. As a result, the client was asked to seek out an appraiser to determine increased value, and a contractor to give detailed costs of construction to legalize. She was told that the process could take four months or more because there needed to be a Planning Commission hearing and was told of these costs and the cost of environmental review and perhaps historic preservation review. Again, she was taken aback at the fees, professional costs, and time for such a hearing approval, but she proceeded to hire those consultants.

My client heard that there was a quicker process but was not so informed by the Planning Department until her architect asked. The planner then told her that unit removal could be justified if the important rooms, such as bedrooms and living rooms, had a ceiling height below the Code minimum. That was in fact the case, but the failure of the Department to notify the client caused a great deal of time and cost because she pursued plans to legalize, before then, and investigation of the costs of construction and the incremental value as assessed by retaining an appraiser. New rules about unit removals were being discussed by Planning and the Board of Supervisors and DBI and this caused a great deal of confusion to her and her architect. Also, additional delays have been caused by my client's health situation, and then by COVID issues.²

Having lost her job as a result of two serious eye operations and a fall that required pins in her legs and feet, she considered selling the property, but realtors told her that with a NOV on the property, it was not easy to sell the building, or she would have to take a very small offer amount.

² Another reason for the delay is because the Planning Department was proposing what construction work had to be done to remove a unit, such as work on doors, but the requests did not reflect existing conditions and were not possible and the client asked the Planning Department many times to visit to confirm that the means of unit removal being dictated by Planning was not feasible, but for some reason the Planning Department would not visit.

The Planning Approval of the dwelling unit removal was not terribly long ago, occurring on January 15 of this year, and my client and her architect have been diligently working on plans to correct building-wide issues and the unit removal permit, and consultants had to bid and provide reports on Title 24 and green building issues.

After the ZA granted a dwelling unit removal, my client asked Planning to withdraw the Legalization application, but Planning asked her not to withdraw it but pursue it as a backup. She expected Planning and DBI to talk about the need to keep it on file but to pause seeking an alteration permit for the legalization while pursuing unit removal. DBI was not informed by Planning and so held a Director's Hearing to ask client to justify delays in seeking permits to legalize. She explained at the hearing that she was told by Planning to pause on legalization, but the DBI hearing officer would not acknowledge that and directed further enforcement action, leading to an Order of Abatement. Planning never informed DBI that the removal was being done. The hearing for DUR approval was shown on the City PIM system and DBI should have looked it up. The Planning Enforcement planner failed to note that on the Permit Tracking System, which befuddled the DBI Plan Reviewer.

On October 19 of 2022, my client flew to Florida for a specialty surgeon for an operation on two eyes, and she could not read computers or phones for almost two months. Then her feet and legs were operated on to deal with cartilage that had been damaged and requiring her thereafter to be in a wheelchair. As a result, her financial situation collapsed as she could not return to her job as a dental hygienist in Marin. She is now 72 years old.

On or around May 2022, the architect advised Mathew Chandler that due to the fact that the client was now wheelchair bound, she needed to create more ADA accessibility to the unit, and asked if she could submit plans to show ADA accessibility and then build it out so at least my client could live somewhere. However, on June 23, 2022, Vincent Page wrote back that "The violation will need to be remedied before any additional scope of work can be considered for review" even though the architect had asked for a permit just for a small area, bathroom hall and laundry room, that needed to be adapted for wheelchair access. As a result, my client had to move to Marin to live in cramped quarters with her ex-husband. My client and her architect considered that to be an insensitive position that likely violated the ADA in that it set up a roadblock to provide an accessibility feature for a person in a wheelchair.

DBI had Code issues that had nothing to do with the second unit, and the City decided it would hold up a simple permit for dwelling unit removal until a permit was also filed to remedy all other potential Code violations in this old building, whether my client created them, or a previous owner did. That alone has caused the biggest delays which have led to the fines. Correction throughout the building has triggered many requirements including Title 24 requirements and green building requirements and MEP requirements. We understand the policy that no permit can be issued with code violations existing, but that is completely unfair when the permit to remove the dwelling unit violation is simply a permit to remove a kitchen and other minor work, and large penalties continue for failure to remove the unit.

My client is asking for your Board to take jurisdiction, notwithstanding the fact that the original deadline for such an appeal has passed, but because my client believes that her move to Florida for surgery caused notice of deadlines not to reach her; likewise with her move to Marin to be with her ex-husband.

Conclusion.

As stated at the start of this letter, my client is seeking a six-month extension to obtain her permit to remove features of a second dwelling unit. She is also seeking a better explanation of the \$9,000 in charges and any other unknown ones and reserves the right to challenge items that appear in the itemization of penalties. She also requests that the Order of Abatement no longer appear on the title records so that she may be able to refinance or sell the building. We feel that the health and safety of the public is not in danger by the granting of this request for extension, and there has been no identification by the City of existing danger.

Very truly yours,



M. Brett Gladstone
CC: Client Bonnie Sun
Janet Campbell, Architect

116 Merced Ave AAB Appeal No. 6946
Exhibit

Jurisdiction of the Abatement Appeals Board (AAB):

Under Section 105A.2 of the San Francisco Building Code (SFBC), and Chapter 77 of the San Francisco Administrative Code, the AAB has the power to hear and decide appeals from Orders of Abatement and hear direct appeals pursuant to SFBC Section 102A. The Board may "uphold, modify, or reverse such orders, provided that the public health, safety and public welfare are secured nearly in accordance with the intent and purpose of this code and the San Francisco Housing Code." (SFBC 105A.2.3).

105A.2.3 Powers.

Except for cases involving disabled access, which shall be heard by the Access Appeals Commission, the Abatement Appeals Board shall have the power to hear and decide appeals from Orders of Abatement after public hearing by the Building Official of Building Inspection, and to hear appeals regarding the issuance of a final bill for assessment of costs imposed pursuant to Section 102A upon a showing of substantial error by the Department. The Abatement Appeals Board may uphold, modify or reverse such orders, provided that the public health, safety and public welfare are secured most nearly in accordance with the intent and purpose of this code and the San Francisco Housing Code.