

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
ALLIE CHEN,

Appeal No. **26-026**

Appellant(s)

VS.

ZONING ADMINISTRATOR,

Respondent

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on May 6, 2026, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on April 7, 2026, of a Notice of Violation & Penalty Decision (The three-story building at the subject property is currently authorized for a two-family dwelling use with garage and a sleeping room on the ground floor, one dwelling unit on the second floor, and second dwelling unit on the third floor. The Zoning Administrator issued a Notice of Violation for the following Planning Code Violations: (1) work without a permit (Section 175), and (2) Unauthorized Dwelling Unit (UDU) (Section 317); the violations pertain to the conversion of the sleeping room behind the garage on the ground floor into a UDU with an independent and direct access and its own kitchen amenities and full bathroom without benefit of a building permit and authorization from the Planning Department) at 1261-1263 3rd Avenue.

Record No. 2021-011425ENF

FOR HEARING ON September 2, 2026

Address of Appellant(s):

Address of Other Parties:

Allie Chen, Appellant(s)
1519 34th Avenue
San Francisco, CA 94122

N/A



Date Filed: May 6, 2026

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 26-026

I / We, **Allie Chen**, hereby appeal the following departmental action: **ISSUANCE** of **Notice of Violation & Penalty Record No. 2021-011425ENF** by the **Zoning Administrator** which was issued or became effective on: **April 7, 2026**, for the property located at: **1261-1263 3rd Avenue**.

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **May 21, 2026, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.lamarre@sfgov.org, corey.teague@sfgov.org, andrew.perry@sfgov.org, carey.mcelroy@sfgov.org

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **June 4, 2026, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: boardofappeals@sfgov.org, julie.lamarre@sfgov.org, corey.teague@sfgov.org, andrew.perry@sfgov.org, carey.mcelroy@sfgov.org, allielee7500@gmail.com

Hard copies of the briefs do NOT need to be submitted to the Board Office or to the other parties.

Hearing Date: **Wednesday, June 10, 2026, 5:00 p.m., Room 416 San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place**. The parties may also attend remotely via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any changes to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a hard copy of the hearing materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the preliminary Statement of Appeal.

Appellant or Agent:

Signature: Via Email

Print Name: Allie Chen, appellant

Dear members of Board of Appeals,

I am writing to file an appeal regarding the Notice of Violation

I would like to clarify that the unit is currently vacant and there is no tenant eviction involved. The space was only occupied on a short-term basis by a personal acquaintance and is not being used as an ongoing rental unit.

Due to ongoing plumbing and functional deficiencies, (partial kitchen), the space is not suitable for long-term residential use. As a result, I am proposing to remove the kitchen and bathroom facilities and discontinue any use of the space as a dwelling unit.

Following this work, the space would revert to its historically permitted use as a legal sleeping room as stated on the 3R report and I intend to use it solely for personal storage.

Given these circumstances, I respectfully request consideration of whether this scope of work may proceed through a simplified process, without requiring a full Conditional Use authorization.

This appeal is submitted in good faith to determine a compliant and practical resolution while minimizing unnecessary procedural burden.

Thank you for your time and consideration.

Sincerely,

Allie



NOTICE OF VIOLATION AND PENALTY DECISION

RESPOND WITHIN 30 DAYS OF THIS NOTICE

Date: April 7, 2026

Property Owners: Allie L Chen Trust
Allie L Chen Trustee
Belle Lee
1262 23rd Avenue
San Francisco, CA 94122

Record Number: 2021-011425ENF
Site Address: 1261-1263 03rd Avenue
Block/Lot: 1752/003
Zoning District: RH-2, Residential- House, Two-Family
Height and Bulk District: 40-X
Special Use District: Family and Senior Housing Opportunity SUD

Planning Code Violations: Section 175, Work without Permit
Section 317, Unauthorized Dwelling Unit

Enforcement Fee: \$5,476.74, Current Fee for Confirmed Violation

Time and Materials: If the Cost of Confirmed Violation Exceeds the Fee Above, Additional Staff Time and Materials fee will be Charged

Administrative Penalty: Up to \$1,000 per Day for Each Violation

Enforcement Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

DECISION: NOTICE OF VIOLATION UPHELD

The Planning Department finds the above referenced property to be in violation of the Planning Code. A Notice of Violation (“NOV”) was issued on January 21, 2026. As the property owner, you are a Responsible Party. The purpose of this notice is to inform you about the Planning Code enforcement process so you can take appropriate action to bring this property into compliance with the Planning Code.

PROPERTY INFORMATION

Our records indicate that the three-story building at the subject property is currently authorized for a two-family dwelling use with garage and a sleeping room on the ground floor, one dwelling unit on the second floor, and second dwelling unit on the third floor.

DESCRIPTION OF VIOLATION

The Planning Department finds that the subject property has the following Planning Code violations:

- (1) Section 175 – Unpermitted Alteration, Exceeding Approved Scope of Work
- (2) Section 317 – Unauthorized Dwelling Unit

Specifically, the violations pertain to the conversion of the sleeping room behind the garage on the ground floor into an Unauthorized Dwelling Unit (UDU) with an independent and direct access and its own kitchen amenities and full bathroom without benefit of a building permit and authorization from the Planning Department.

Pursuant to Planning Code Section 317(b)(13), "Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property. "Independent" shall mean that (i) the space has independent access that does not require entering a Residential Unit on the property and (ii) there is no open, visual connection to a Residential Unit on the property.

Approval from the Planning Department and the Department of Building Inspection (DBI) is required for legalization and removal of any unauthorized dwelling units. Pursuant to Planning Code Section 317(c)(1), Conditional Use Authorization (CUA) is also required to remove an UDU.

Pursuant to Planning Code Section 171, structures and land in any zoning district shall be used only for the purposes listed in the Planning Code as permitted in that district, and in accordance with the regulations established for that district.

Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure subject to the Planning Code.

Pursuant to Planning Code Section 176, failure to comply with any Planning Code provision constitutes a violation of the Planning Code and is subject to an enforcement process.

PERMIT HISTORY

On March 20, 21963, Building Permit No. 271156 was issued for two dwelling units and one sleeping room with no kitchen. This is the last legal condition and use at the subject property.

On December 5, 2016, you submitted Building Permit Application (BPA) No. 201612054132 to seek legalization of the UDU on the ground floor. However, you did not complete the required permit processes and consequently this permit was cancelled on August 14, 2025.

TIMELINE OF INVESTIGATION

On August 6, 2020, the Planning Department determined the existence of an UDU at the above property through an UDU screening process under Record No. 2016-016285PIC.

On November 9, 2021, the Planning Department opened Enforcement Case No. 2021-011425ENF.

On January 5, 2022, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the violation complaint.

On March 18, 2022, the Planning Department sent you a Notice of Enforcement (NOE). In that notice, you were advised to take corrective action and provide evidence of compliance to the Planning Department within fifteen (15) days.

On April 9, 2022, the Planning Department required that you record a Notice of Special Restrictions (NSR) first, before Planning could approve BPA No. 201612054132 to legalize the UDU. You did not record the NSR.

On May 12, 2022, the property owner (Allie Chen) requested Rachna a five-year extension of time, per California State Health and Safety Code Section 17980.12 to abate the violation, due to financial hardship and family medical reasons.

On May 27, 2022, Rachna informed Allie Chen via email that since BPA No. 201612054132 to legalize the UDU was submitted in 2016, it already had been delayed for over 5 years. At that time, all you needed to do was record the NSR so the permit to legalize the UDU could be approved by the Planning Department.

On June 2, 2022, Allie Chen informed Rachna that you didn't have the funds, time, or energy to fulfill all the requirements to legalize the UDU and reiterated your request for extension of time to abate the violation.

On February 2, 2023, Rachna reminded Allie Chen about the required corrective steps to complete the permit process under BPA No. 201612054132 and advised to record the NSR within thirty (30) days. Rachna also informed Allie Chen about the accruing enforcement time and materials fee.

On February 9, 2023, Allie Chen requested Rachna to provide additional time to complete the necessary steps to legalize the UDU. Per Allie Chen's request, no further enforcement action was taken at that time.

On September 29, 2023, Rachna provided Allie Chen additional 30 days to record the NSR under BPA No. 201612054132. Allie Chen did not respond.

On July 15, 2024, the Planning Department referred the matter to the Department of Building Inspection (DBI) for consideration of your enforcement delay request and their investigation.

On August 9, 2024, Rachna contacted Allie Chen to request an update on the actions you intended to take to abate the violation. Allie Chen did not respond.

On June 13, 2025, a cancellation notice for BPA No. 201612054132 was issued by DBI, allowing sixty (60) days for you to either continue working on this permit or appeal the cancellation. You did not respond.

On July 10, 2025, Rachna contacted you (Belle Lee and Allie Chen) via email to inquire about the status of abatement actions. Rachna advised you to send a written request to DBI for consideration of an enforcement delay.

On July 13, 2025, Allie Chen contacted Rachna about the process for removal of the UDU.

On July 14, 2025, Rachna provided Allie Chen with the information regarding the process to seek removal of the UDU.

On August 12, 2025, Planning Department staff (Rachna and Vincent Page), along with DBI staff (Laura Torres) conducted a site visit to verify the UDU at the above property. The UDU was found to be tenant occupied.

On August 14, 2025, BPA No. 201612054132 was cancelled after you neither completed the permit process nor appealed the cancellation.

On August 19, 2025, Rachna advised Allie Chen to submit the required applications and supportive documentation within thirty (30) days to either legalize or remove the UDU in order to abate the violation, and submit a letter to DBI for an enforcement delay. Allie Chen did not respond.

On December 8, 2025, Rachna reiterated the above required requirements and advised Allie Chen that the Planning Department would proceed with further enforcement process. Again, Allie Chen did not respond.

On January 21, 2026, the Planning Department sent you a Notice of Violation (“NOV”). In that notice, you were advised to take corrective action or submit evidence of compliance to the Planning Department within thirty (30) days.

On February 9, 2026, Allie Chen indicated to Rachna that the ground floor space contained a legal sleeping room. It didn’t contain a kitchen with any cooking facilities and no construction or alteration work was undertaken and as such, the ground floor was not an independent dwelling unit. Allie Chen also requested that enforcement action and fee accrual be stayed to allow further review of this matter. Rachna informed Allie Chen that because the ground floor space was rented out separately from the upper two units dwelling units, it was deemed as an UDU.

On February 12, 2026, Allie Chen informed Rachna that the sleeping room, bathroom, and storage cabinets on the ground floor are long-standing and existed before you purchased the property in 1988 and you intended to keep this space for your own use in future whenever you were in town. Rachna informed Allie Chen that the ground floor habitable space could be permitted as long as it was used in conjunction with one of the units above. However, two legal dwelling units on the upper floors had no access to the ground floor habitable space. Additionally, a UDU was determined by its independent “physical configuration” and separate “use”, not by whether this space had its own kitchen. The ground floor met the criterion for UDU determination.

On February 13, 2026, a Request for Zoning Administrator Hearing was filed to appeal the NOV.

On March 4, 2026, the Acting Zoning Administrator held a public hearing to consider the NOV. The hearing was attended by the Acting Zoning Administrator (Kelly Wong), Enforcement staff (Rachna), and the property owner (Allie Chen). No other members of the public were present.

EVIDENCE PRESENTED AT THE ZONING ADMINISTRATOR HEARING

Details of the hearing are discussed below.

The Acting Zoning Administrator stated that the NOV was issued for the UDU at the above property as determined by the Planning Department.

The Acting Zoning Administrator further stated that the purpose of the hearing was to allow an opportunity for the above property owners and representatives to provide additional information and arguments in response to the NOV.

The property owner stated that the sleeping room, bathroom, and storage cabinets existed on the ground floor when the above property was purchased in 1988 and that no additional work has been performed since that time. The owner confirmed that this ground floor space has been rented separately from the dwelling units on the upper floors. The owner further indicated that the ground floor residential space will be kept for personal use once the current tenant vacates the UDU. The property owner acknowledged the facts of the situation, expressed concerns regarding the enforcement fee, and inquired about the processes to bring the subject property into compliance with the Planning Code.

The Acting Zoning Administrator stated that any assessed fees will be further reviewed and a NOV decision letter will be issued which will include the processes to either legalize or remove the UDU (if eligible).

SUBMITTALS AND CONSIDERATION AFTER THE HEARING

No new information has been submitted since the hearing. The Acting Zoning Administrator (Kelly Wong) has reviewed all submittals to date and considered statements made at the March 4, 2026 hearing.

DECISION

NOTICE OF VIOLATION UPHELD. Pursuant to Planning Code Section 176, the Acting Zoning Administrator has a duty in administration and enforcement of the Planning Code. Accordingly, the Acting Zoning Administrator upholds the Notice of Violation issued on January 21, 2026.

The Responsible Party shall abate the violation as follows:

1. **UDU Occupancy Records.** Submit the following information to Planning staff contact listed above within fifteen (15) days of this Notice:

- a. Copies of leases and rental agreements for the UDU at the subject property.
- b. Provide a chronology of occupancy for the UDU since its creation.

2. Legalize the UDU: If you intend to legalize the UDU, take the following steps.

- A. Obtain Planning Approval:** Obtain a Planning Approval from the Planning Department to legalize the UDU by submitting a Project Application, plans, and other required documents for one of the following legalization options, as applicable:
 - a. **Unit Within Density:** Legalize the UDU as a third regular dwelling unit.
 - b. **Accessory Dwelling Unit (ADU):** Legalize the UDU as an Accessory Dwelling Unit (ADU) (<https://www.sf.gov/step-by-step--apply-build-accessory-dwelling-unit-adus>).
 - c. **Unit Legalization Program:** Legalize the UDU under the Unit Legalization program (if the UDU existed before January 1, 2013: <https://www.sf.gov/step-by-step/legalize-unit-your-home>).
- B. Obtain Building Permit:** If a Planning Approval is granted, obtain a building permit to legalize the UDU. The information on building permit process is available from the DBI website at: <https://www.sf.gov/topics/building-permits>.

Or,

3. Remove the UDU. If you intend to seek removal of the UDU and restore the above property back to a two-family dwelling use, take the following steps.

- A. Obtain Conditional Use Authorization:** Obtain Conditional Use Authorization (CUA) from the Planning Department to remove the UDU, which is at the discretion of the Planning Commission. For this option, you must submit the below applications, all required application materials including plans, as noted below and in the Project Application. A complete application must be submitted including payment of any application fees. The following applications are available from the Planning Department website at <https://sfplanning.org/resources>.

- Project Application: <https://sfplanning.org/resource/prj-application>
- CUA Application: <https://sfplanning.org/resource/cua-supplemental>
- Dwelling Unit Removal Application: <https://sfplanning.org/resource/DURemoval-supplemental>
- Plans showing the following three (3) conditions: 1) Last authorized, 2) As-built showing the unauthorized work, and 3) Proposed.

If the CUA is granted, the Planning Department will issue a Planning Approval Letter (PAL).

- B. Obtain Building Permit:** Upon issuance of the PAL, you must obtain a building permit to vest the CUA for the removal of the UDU. The information on building permit process is available from the DBI

website at: <https://www.sf.gov/topics/building-permits>.

The above Planning and building permit applications must be diligently pursued through approval and issuance in compliance with applicable deadlines. Please be advised that, upon review of above applications and submittal of plans, the Planning Department may determine that additional planning applications and processes are required, in which case you will be notified to make the necessary submittals. You may also need to obtain a building permits for any other unauthorized alterations at the property.

4. Completion of Abatement Work: Upon abatement permit issuance, you are required to complete the following:

- a. Construction Schedule. Submit a Construction Schedule with start and end dates to the staff contact within thirty (30) days of permit issuance.
 - i. Start work within thirty (30) days of permit issuance.
 - ii. Complete all work within 180 days of permit issuance. Notify staff of any delays beyond your control and if an extension of time is needed to complete work.
- b. Monthly Progress. Provide monthly updates with description of work completed and in progress with photos to the Planning enforcement staff contact noted above.
- c. Final Planning Inspection. Submit photographic evidence of the completed work and schedule a site visit with Planning enforcement staff upon work completion.
- d. Permit Completion. Once the enforcement planner determines all completed work is consistent with Planning Department approvals, schedule a final inspection with DBI and submit a copy of the final inspection and/or issuance of a certificate of final completion to the staff contact upon completion of above steps.

5. Resolve the Planning Enforcement Case. This enforcement case can only be closed after the violations are abated and any assessed fees and penalties paid in full.

The responsible party will need to provide adequate evidence to demonstrate that the violation has been abated.

Please visit our website at: sfplanning.org; for plan submittal guidelines, see: sfplanning.org/resource/plan-submittal-guidelines, and the code enforcement process at: sfplanning.org/code-enforcement.

TIMELINE TO RESPOND AND ADMINISTRATIVE PENALTIES

If the Responsible Party does not file an appeal or take corrective action to abate the violation within thirty (30) days, this NOVDP will become final. Beginning on the following day, administrative penalties of up to \$1,000 per day for each violation will be assessed to the Responsible Party and will continue to accrue for each day the violation continues without corrective action. Please note that when assessing one time and total

penalties, the Zoning Administrator will take into consideration how responsive the responsible party has been in working with the Planning Department to correct the violation.

If penalties are assessed and begin to accrue, the Planning Department will issue a Notice of Penalty and Fee. The accrued penalty amount shall be paid within thirty (30) days from the issuance date of that Notice. Please be advised that payment of accrued penalties does not excuse failure to correct the violation or bar further enforcement action. Additional penalties will continue to accrue until corrective action is taken to abate the violation.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for “Time and Materials” to recover the cost of correcting the Planning Code violations. **Accordingly, the Responsible Party is currently subject to a fee of \$5,476.74 for “Time and Materials” cost associated with the Code Enforcement investigation to date for the confirmed violation/s.** Additional fees continue to accrue until the violation is abated. The fee is separate from the administrative penalties described above and is not appealable. For information on how to pay, contact the enforcement planner listed above.

FAILURE TO PAY PENALTIES AND FEES

If the Responsible Party fails to pay the “Administrative Penalties” and “Time and Materials” fee to the Planning Department within thirty (30) days of the issuance of this Notice of Penalty and Fee, the Zoning Administrator may take action to collect the “Penalties” and any unpaid “Time and Materials” fee owed to the Department, including:

- 1) Referral of the matter to the Bureau of Delinquent Revenue (BDR) under Chapter 10, Article V, Section 10.39 of the San Francisco Administrative Code. The BDR may apply a 25% surcharge for their collection services. Please note that such surcharge will be considered part of the cost of correcting the violation, and the Responsible Party will be responsible for such charges.
- 2) Initiation of lien proceedings under Chapter 10, Article XX, Section 10.230 et seq. of the San Francisco Administrative Code; and
- 3) Requesting the San Francisco Office of City Attorney to pursue collection of the “Administrative Penalties” and “Time and Materials” imposed against the Responsible Party in a civil action.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation.

We want to assist you to bring the subject property into full compliance with the Planning Code. If you have any questions on the enforcement and appeal processes, or if you need additional time to correct the violation/s please contact the Enforcement Planner noted above and we will assist you in developing a reasonable timeline.

RECORDATION OF ORDER OF ABATEMENT

Ninety (90) days following the finalization of this Notice of Violation as described under the Administrative Penalties of this Notice, an Order of Abatement may be recorded against the property's records in the Office of the Recorder of the City and County of San Francisco.

The obligation to correct the violation as set forth in the Notice of Violation, Notice of Violation and Penalty Decision, or Notice of Penalty and Fee shall be Planning Code conditions pursuant to Planning Code Section 174 and shall run with title to the property. Further, such recordation shall provide notice to each Responsible Party and any subsequent "successor" or "assign of title" to the property that the failure to perform such obligations is a violation of the Planning Code and may be enforced pursuant to Planning Code Section 176.

Any fees associated with recordation and/or revocation of an Order of Abatement will be assessed to the Responsible Party and added to the "Time and Materials" fee discussed above. All daily penalties assessed and/or Time and Materials incurred is required to be paid prior to the revocation of the Order of Abatement.

APPEAL RIGHTS

This Violation and Penalty Decision notice and any assessed penalties may be appealed to the Board of Appeals within **thirty (30) days** from the date of this notice at:

49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Phone: 628.652.1150
Email: boardofappeals@sfgov.org
Website: sfgov.org/bdappeal

If Board of Appeals upholds the notice of Violation and Penalty the Board may not reduce the amount of penalty below \$200 per day for each day the violation continues unabated.

Penalties are not assessed during the period when the matter is pending either before the Zoning Administrator or before the Board of Appeals. However, if the Responsible Party requests continuance of the appeal without a reasonable cause with the Board of Appeals, the penalties may still be assessed during the continuation period.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly H. Wong". The signature is fluid and cursive, with the first name "Kelly" being more prominent.

Kelly H. Wong
Acting Zoning Administrator

Attachments:
Notice of Violation dated January 21, 2026

CC: Allie Lee, Property Owner, via email at allielee7500@gmail.com
Belle Lee , Property Owner, via email at bellelee.taeuber@bluewin.ch
Laura Torres, Building Inspector, DBI via email at laura.torres@sfgov.org



NOTICE OF VIOLATION

RESPOND WITHIN 30 DAYS OF THIS NOTICE

Date: January 21, 2026

Property Owners: Allie L Chen Trustee
Allie L Chen Trust
Belle Lee
1262 23rd Avenue
San Francisco, CA 94122

Record Number: 2021-011425ENF
Site Address: 1261-1263 03rd Avenue
Block/Lot: 1752/003
Zoning District: RH-2, Residential- House, Two-Family
Height and Bulk District: 40-X
Special Use District: Family and Senior Housing Opportunity SUD

Planning Code Violations: Section 175, Work without Permit
Section 317, Unauthorized Dwelling Unit
Enforcement Fee: \$4,224.44, Current Fee for Confirmed Violation
Time and Materials: If the Cost of Confirmed Violation Exceeds the Fee Above, Additional Staff Time and Materials fee will be Charged
Administrative Penalty: Up to \$1,000 per Day for Each Violation
Enforcement Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

The Planning Department has determined that a Planning Code violation exists on the above referenced property that must be resolved. As the property owner, you are a Responsible Party. The purpose of this notice is to inform you about the Planning Code enforcement process so you can take appropriate action to bring this property into compliance with the Planning Code.

PROPERTY INFORMATION

Our records indicate that the three-story building at the subject property is currently authorized for a two-family dwelling use with garage and storage space on the ground floor, one dwelling unit on the second floor,

and second dwelling unit on the third floor.

DESCRIPTION OF VIOLATION

The Planning Department finds that the subject property has the following Planning Code violations:

- (1) Section 175 – Unpermitted Alteration, Exceeding Approved Scope of Work.
- (2) Section 317 – Unauthorized Dwelling Unit

Specifically, the violations pertain to the development of an independent and directly accessible dwelling space behind the garage on the ground floor level with its own separate kitchen and full bathroom and use as an Unauthorized Dwelling Unit (UDU) without benefit of a building permit and authorization from the Planning Department.

Pursuant to Planning Code Section 317(b)(13), "Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property. "Independent" shall mean that (i) the space has independent access that does not require entering a Residential Unit on the property and (ii) there is no open, visual connection to a Residential Unit on the property.

Approval from the Planning Department and the Department of Building Inspection (DBI) is required for legalization and removal of any unauthorized dwelling units. Pursuant to Planning Code Section 317(c)(1), Conditional Use Authorization (CUA) is also required to remove an UDU.

On December 5, 2016, you submitted Building Permit Application (BPA) No. 201612054132 to seek legalization of the UDU. However, you did not complete the required permit processes and consequently BPA No. 201612054132 was cancelled on August 14, 2025.

Pursuant to Planning Code Section 171, structures and land in any zoning district shall be used only for the purposes listed in the Planning Code as permitted in that district, and in accordance with the regulations established for that district.

Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure subject to the Planning Code.

Failure to comply with any Planning Code provision constitutes a violation of the Planning Code and is subject to an enforcement process, pursuant to Planning Code Section 176.

TIMELINE OF INVESTIGATION

On August 6, 2020, the Planning Department determined the existence of an UDU at the above property

through an UDU screening process under Record No. 2016-016285PIC.

On November 9, 2021, the Planning Department opened Enforcement Case No. 2021-011425ENF.

On January 5, 2022, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the violation.

On February 1, 2022, the property owner (Allie Chen) called and left a voice mail for the Planning Department staff (Rachna) to respond to the NOC.

On February 3, 2022, Rachna called Allie Chen back but was unable to leave a voicemail.

On March 18, 2022, the Planning Department sent you a Notice of Enforcement (NOE). In that notice, you were advised to take corrective action and provide evidence of compliance to the Planning Department within fifteen (15) days.

On April 9, 2022, the Planning Department required that you record a Notice of Special Restrictions (NSR) first, before Planning could approve BPA No. 201612054132 to legalize the UDU. You did not record the NSR.

On May 12, 2022, Allie Chen requested Rachna a five-year extension of time, per California State Health and Safety Code Section 17980.12 to abate the violation, due to financial hardship and family medical reasons.

On May 27, 2022, Rachna informed Allie Chen via email that since BPA No. 201612054132 to legalize the UDU was submitted in 2016, it already had been delayed for over 5 years. At that time, all you needed to do was record the NSR so the permit to legalize the UDU could be approved by the Planning Department.

On June 2, 2022, Allie Chen informed Rachna that you didn't have the funds, time, or energy to fulfill all the requirements to legalize the UDU and reiterated your request for extension of time to abate the violation.

On February 2, 2023, Rachna reminded Allie Chen about the required corrective steps to complete the permit process under BPA No. 201612054132 and advised to record the NSR within thirty (30) days. Rachna also informed Allie Chen about the accruing enforcement time and materials fee.

On February 9, 2023, Allie Chen requested Rachna to provide you with additional time to complete the necessary steps to legalize the UDU. Per Allie Chen's request, no further enforcement action was taken at that time.

On September 29, 2023, Rachna sent an email to Allie Chen inquire if the NSR under BPA No. 201612054132 had been recorded. You were provided 30 days to complete the recording if it had not already been done. Allie Chen did not respond.

On July 15, 2024, the Planning Department referred the matter to the Department of Building Inspection (DBI) for consideration of your enforcement delay request and for investigation.

On August 9, 2024, Rachna contacted Allie Chen to request an update on the actions you intended to take to abate the violation. Rachna also informed Allie Chen that your enforcement delay request had been referred

to DBI for review. Allie Chen did not respond.

On June 13, 2025, a cancellation notice for BPA No. 201612054132 was issued by DBI, allowing sixty (60) days for you to either continue working on this permit or appeal the cancellation. You did not respond.

On July 10, 2025, Rachna contacted you (Belle Lee and Allie Chen) via email to inquire about the status of abatement actions. You were advised to send a written request to DBI for consideration of an enforcement delay.

On July 13, 2025, Allie Chen contacted Rachna about the process for removal of the UDU.

On July 14, 2025, Rachna provided Allie Chen with the information regarding the process to seek removal of the UDU.

On August 12, 2025, Planning Department staff (Rachna and Vincent Page), along with DBI staff (Laura Torres) conducted a site visit to verify the UDU at the above property. The UDU was found to be tenant occupied.

On August 14, 2025, BPA No. 201612054132 was cancelled after you neither completed the permit process nor appealed the cancellation.

On August 19, 2025, Rachna advised Allie Chen to submit the required applications and supportive documentation within thirty (30) days to either legalize or remove the UDU in order to abate the violation, and submit a letter to DBI for an enforcement delay. Allie Chen did not respond.

On December 8, 2025, Rachna reiterated the above required requirements and advised Allie Chen that the Planning Department would proceed with further enforcement process. Again, Allie Chen did not respond.

To date, the Planning Department has not received evidence to demonstrate that a corrective action has been taken to bring the subject property into compliance with the Planning Code.

REQUIRED COMPLIANCE ACTIONS

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violation by taking the following corrective actions:

- 1. UDU Occupancy Records.** Submit the following information to Planning staff contact listed above within

fifteen (15) days of this Notice:

- a. Copies of leases and rental agreements for the UDU at the subject property.
- b. Provide a chronology of occupancy for the UDU since its creation.

2. Legalize the UDU: If you intend to legalize the UDU, take the following steps.

A. Obtain Planning Approval: Obtain a Planning Approval from the Planning Department to legalize the UDU by submitting a Project Application, plans, and other required documents for one of the following legalization options, as applicable:

- a. **Unit Within Density:** Legalize the UDU as a third standard dwelling unit.
- b. **Accessory Dwelling Unit (ADU):** Legalize the UDU as an Accessory Dwelling Unit (ADU) (<https://www.sf.gov/step-by-step--apply-build-accessory-dwelling-unit-adus>).
- c. **Unit Legalization Program:** Legalize the UDU under the Unit Legalization program (if the UDU existed before January 1, 2013: <https://www.sf.gov/step-by-step/legalize-unit-your-home>).

B. Obtain Building Permit: If a Planning Approval is granted, obtain a building permit to legalize the UDU. The information on building permit process is available from the DBI website at: <https://www.sf.gov/topics/building-permits>.

Or,

3. Remove the UDU. If you intend to seek removal of the UDU and restore the above property back to a two-family dwelling use, take the following steps.

A. Obtain Conditional Use Authorization: Obtain Conditional Use Authorization (CUA) from the Planning Department to remove the UDU, which is at the discretion of the Planning Commission. For this option, you must submit the below applications, all required application materials including plans, as noted below and in the Project Application. A complete application must be submitted including payment of any application fees. The following applications are available from the Planning Department website at <https://sfplanning.org/resources>.

- Project Application: <https://sfplanning.org/resource/prj-application>
- CUA Application: <https://sfplanning.org/resource/cua-supplemental>
- Dwelling Unit Removal Application: <https://sfplanning.org/resource/DURemoval-supplemental>
- Plans showing the following three (3) conditions: 1) Last authorized, 2) As-built showing the unauthorized work, and 3) Proposed.

If the CUA is granted, the Planning Department will issue a Planning Approval Letter (PAL).

B. Obtain Building Permit: Upon issuance of the PAL, you must obtain a building permit to vest the CUA for the removal of the UDU. The information on building permit process is available from the DBI

website at: <https://www.sf.gov/topics/building-permits>.

The above Planning and building permit applications must be diligently pursued through approval and issuance in compliance with applicable deadlines. Please be advised that, upon review of above applications and submittal of plans, the Planning Department may determine that additional planning applications and processes are required, in which case you will be notified to make the necessary submittals. You may also need to obtain a building permits for any other unauthorized alterations at the property.

4. Completion of Abatement Work: Upon abatement permit issuance, you are required to complete the following:

- a. Construction Schedule. Submit a Construction Schedule with start and end dates to the staff contact within thirty (30) days of permit issuance.
 - i. Start work within thirty (30) days of permit issuance.
 - ii. Complete all work within 180 days of permit issuance. Notify staff of any delays beyond your control and if an extension of time is needed to complete work.
- b. Monthly Progress. Provide monthly updates with description of work completed and in progress with photos to the Planning enforcement staff contact noted above.
- c. Final Planning Inspection. Submit photographic evidence of the completed work and schedule a site visit with Planning enforcement staff upon work completion.
- d. Permit Completion. Once the enforcement planner determines all completed work is consistent with Planning Department approvals, schedule a final inspection with DBI and submit a copy of the final inspection and/or issuance of a certificate of final completion to the staff contact upon completion of above steps.

The responsible party will need to provide adequate evidence to demonstrate that the violation has been abated.

5. Resolving the Planning Enforcement Case. This enforcement case can only be closed after the violations are abated and any assessed fees and penalties paid in full.

For general questions regarding the planning review process, please contact the Planning Department at 628.652.7300 or pic@sfgov.org.

For questions regarding the building permit process, please contact DBI at 628.652.3200 or dbicustomerservice@sfgov.org.

For information on the code enforcement process, please visit the Planning Department website at <https://sfplanning.org/code-enforcement>.

TIMELINE TO RESPOND AND ADMINISTRATIVE PENALTIES

If the Responsible Party does not file an appeal or take corrective action to abate the violation within thirty (30) days, this Notice of Violation will become final. Beginning on the following day, administrative penalties of up to \$1,000 per day for each violation may be assessed to the Responsible Party and will continue to accrue for each day the violation continues without corrective action. Please note that when assessing one-time and total penalties, the Zoning Administrator may consider how responsive the responsible party has been in working with the Planning Department to correct the violation.

If penalties are assessed and begin to accrue, the Planning Department will issue a Notice of Penalty and Fee. The accrued penalty amount shall be paid within thirty (30) days from the issuance date of that Notice. Please be advised that payment of accrued penalties does not excuse failure to correct the violation or bar further enforcement action. Additional penalties may continue to accrue until corrective action is taken to abate the violation.

ENFORCEMENT FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge an Enforcement Fee for staff time and materials to recover the cost of correcting Planning Code violations. **Accordingly, the Responsible Party is currently subject to an enforcement fee of \$4,224.44.** Additional fees continue to accrue until the violation is abated. The fee is separate from the administrative penalties described above and is not appealable. For information on how to pay, contact the enforcement planner listed above.

FAILURE TO PAY PENALTIES AND FEES

If the Responsible Party fails to pay the “Administrative Penalties” and “Time and Materials” fee to the Planning Department within thirty (30) days of the issuance of Notice of Penalty and Fee, the Zoning Administrator may take action to collect the “Penalties” and any unpaid “Time and Materials” fee owed to the Department, including:

- 1) Referral of the matter to the Bureau of Delinquent Revenue (BDR) under Chapter 10, Article V, Section 10.39 of the San Francisco Administrative Code. The BDR may apply a 25% surcharge for their collection services. Please note that such surcharge will be considered part of the cost of correcting the violation, and the Responsible Party will be responsible for such charges.
- 2) Initiation of lien proceedings under Chapter 10, Article XX, Section 10.230 et seq. of the San Francisco Administrative Code; and
- 3) Requesting the San Francisco Office of City Attorney to pursue collection of the “Administrative Penalties” and “Time and Materials” imposed against the Responsible Party in a civil action.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications

not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation.

We want to help you bring the subject property into full compliance with the Planning Code. If you have any questions on the enforcement and appeal process, or if you need additional time to correct the violation/s please contact the Enforcement Planner noted above and we will assist you in developing a reasonable timeline.

RECORDATION OF ORDER OF ABATEMENT

Ninety (90) days following the finalization of this Notice of Violation as described under the Administrative Penalties of this Notice, an Order of Abatement may be recorded against the property's records in the Office of the Recorder of the City and County of San Francisco.

The obligation to correct the violation/s as set forth in the Notice of Violation, Violation and Penalty Decision, or Notice of Penalty and Fee shall be Planning Code conditions pursuant to Planning Code Section 174 and shall run with title to the property. Further, such recordation shall provide notice to each Responsible Party and any subsequent “successor” or “assign of title” to the property that the failure to perform such obligations is a violation of the Planning Code and may be enforced pursuant to Planning Code Section 176.

Any fees associated with recordation and/or revocation of an Order of Abatement will be assessed to the Responsible Party and added to the “Time and Materials” fee discussed above. All daily penalties assessed and/or Time and Materials incurred is required to be paid prior to the revocation of the Order of Abatement.

APPEAL RIGHTS

If the Responsible Party believes that this Notice of Violation to correct a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available:

- 1) **Zoning Administrator Hearing.** The Responsible Party may request a Zoning Administrator Hearing under Planning Code Section 176 within **thirty (30) days** from the date of this Notice of Violation by submitting to the Enforcement Planner the Request for Zoning Administrator Hearing Form [https://sfplanning.org/sites/default/files/forms/Zoning Administrator Request for Hearing-Code Enforcement.pdf](https://sfplanning.org/sites/default/files/forms/Zoning%20Administrator%20Request%20for%20Hearing-Code%20Enforcement.pdf) with supporting evidence to the Planning Department. The request will need to show cause as to why this Notice of Violation has been issued in error and should be rescinded. Provide the emails for all parties interested in attending this hearing. The Zoning Administrator shall render a decision on the Notice of Violation within thirty (30) days of such hearing. If the Responsible Party disagrees with the Zoning Administrator’s decision, they may then appeal the Zoning Administrator’s written decision to the Board of Appeals within **thirty (30) days** from the date of the decision.

- 2) **Board of Appeals.** The Responsible Party or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation within **thirty (30) days** from the date of the Notice of Violation to the Board of Appeals located at:

49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Phone: (628) 652-1150
Email: boardofappeals@sfgov.org
Website: www.sfgov.org/bdappeal

If Board of Appeals upholds the Notice of Violation the Board may not reduce the amount of penalty below \$200 per day for each day the violation continues unabated.

Penalties are not assessed during the period when the matter is pending either before the Zoning Administrator or before the Board of Appeals. However, if the Responsible Party requests continuance of the appeal without a reasonable cause with the Board of Appeals, the penalties may still be assessed during the continuation period.

Sincerely,



Kelly H. Wong
Acting Zoning Administrator

Attachments:
Notice of Enforcement dated March 18, 2022

CC: Allie Lee, Property Owner, via email at allielee7500@gmail.com
Belle Lee, Property Owner, via email at bellelee.taeuber@bluewin.ch
Laura Torres, Building Inspector, DBI via email at laura.torres@sfgov.org



NOTICE OF ENFORCEMENT

March 18, 2022

Property Owner

Allie L Chen Trust
Belle Lee
1262 23rd Avenue
San Francisco, CA 94122

Site Address: 1263 03rd Avenue
Assessor's Block/Lot: 1752/003
Zoning District: RH-2, Residential- House, Two-Family
Complaint Number: 2021-011425ENF
Code Violation: Section 175, Work without Permit; Failure to Complete Permit Process under Building Permit Application No. 201612054132
Section 317, Unauthorized Dwelling Unit
Administrative Penalty: \$250 Each Day of Violation
Enforcement T & M Fee: \$1,542 (Current Fee for Confirmed Violation, Additional Charges May Apply)
Response Due: Within 15 Days from the Date of This Notice
Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

The Planning Department received a complaint that a Planning Code violation exists on the above referenced property that must be resolved. As the owner of the subject property, you are a responsible party. The purpose of this notice is to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

Description of Violation

Our records indicate that the subject property is currently authorized as a two-family dwelling. The violation pertains to creation of a third dwelling unit as an Unauthorized Dwelling Unit (UDU) on the ground floor of the building at the subject property without benefit of a permit and approval from the Planning Department.

Pursuant to Planning Code Section 317(b)(13), "Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property. "Independent" shall mean that (i) the space has independent access that does not require entering a Residential Unit on the property and (ii) there is no open, visual connection to a Residential Unit on the property."

Approval from the Planning Department and the Department of Building Inspection (DBI) is required for legalization and removal of any unauthorized dwelling units. The UDU must satisfy all applicable requirements of the Planning Code.

Pursuant to Planning Code Section 317(c)(1), Conditional Use Authorization (CUA) is also required to remove an UDU. Further information on removal of dwelling units is available from the Planning Department website at <https://sfplanning.org/resource/zoning-controls-removal-dwelling-units>.

On December 5, 2016, Building Permit Application (BPA) No. 201612054132 was filed to seek legalization of the UDU.

On January 20, 2017, the then Planning Department staff, Colin Clarke sent a Notice of Planning Department Requirements (NOPDR1) and an email to the permit applicant, Samuel Kwong to request 1) More details regarding the eviction history (evidence showing that eviction was in the upper unit with address 1263 03rd Avenue and not in the UDU with address 1263A 03rd Avenue proposed to be legalized on the ground floor) and 2) Submit a single digital PDF of the combined plan set addressing the comments in NOPDR-1.

On March 27, 2017, Mr. Clarke sent another email to Mr. Kwong to follow up on the compliance status with the NOPDR1.

On April 20, 2017, BPA No. 201612054132 was reassigned to another Planning Department staff, Marcelle Moudreaux.

On January 5, 2022, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the violation.

On February 1, 2022, you called the Planning Department staff, Rachna to respond to the NOC. In your voice message, you indicated that you would send an email to Rachna to follow up. Rachna did not receive such email from you.

On February 3, 2022, Rachna called the phone number you provided but was unable to reach you or leave a voice message.

On March 10, 2022, you called the Planning Department staff, Rachna to indicate that you were unable to send the email due to medical issues with your eyes. Rachna called you back and again was unable to reach you or leave a voice message.

On March 17, 2022, Rachna contacted Mr. Kwong via email to find out if he still represented you on BPA No. 201612054132.

To date, the Planning Department has not received any response on the NOPDR1 dated January 20, 2017. The subject property is not deemed to be in full compliance with the Planning Code if BPA No. 201612054132 is not pursued diligently for approval, issuance, and completion of work to legalize the UDU.

Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code.

Pursuant to Planning Code Section 171 structures and land in any zoning district shall be used only for the purposes listed in the Planning Code as permitted in that district, and in accordance with the regulations established for that district. Failure to comply with any Planning Code provisions constitutes a violation of Planning Code under Code Section 176.

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violation as follows:

1. Respond to the Planning Department's NOPDR1 within fifteen (15) days from the date of this notice and diligently pursue BPA No. 201612054132 to obtain the Planning Department's approval and subsequent issuance and completion of BPA No. 201612054132 with a Final Inspection and Certification of Final Completion (CFC) from DBI. Please contact the manager, Natalia Kwiatkowska immediately via email at natalia.kwiatkowska@sfgov.org for further instructions on BPA No. 201612054132 .

Or,

2. Submit a Project application with supplemental Dwelling Unit Removal - Merger, Conversion or Demolition Supplemental CUA applications and a BPA to remove the UDU. The Project and CUA applications are available from the Planning Department's website at <http://www.sfplanning.org>.
3. Please provide the currently existing plans, photos, rental agreements/lease copies for the above property and schedule a site visit with the staff noted above.

The above applications must be diligently pursued and completed. Upon further review, you may also be required to submit additional planning applications, revise building permits, provide additional information to seek compliance with the Planning Code.

You will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. You may also need to obtain a building permit for any other alterations done without benefit of permit at the property. Please visit DBI website, <https://sf.gov/apply-building-permit> for information on the permit application process. The work approved under any permits to abate violation must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

For questions regarding the building permit process, please contact the **Department of Building Inspection (DBI)** at:

49 South Van Ness Avenue, 2nd/5th Floor
San Francisco, CA 94103
Phone: 628.652.3200
Email: dbicustomerservice@sfgov.org

Website: www.sfdbi.org

For questions regarding the planning permit review process, please contact the **Planning Department** at:

49 South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103
Phone: 628.652.7300
Email: pic@sfgov.org
Website: www.sfplanning.org

For questions about this enforcement case, please email the assigned enforcement planner as noted above. For questions about the Building Code or building permit process, please email DBI at the email address noted above.

Timeline to Respond

The timeline to respond to this Notice of Enforcement is **fifteen (15) days from the date of this notice**. Delays in abatement of the violation beyond this timeline will result in further enforcement action by the Planning Department, including issuance of Notice of Violation and assessment of administrative penalties at \$250 per day.

Please contact the assigned Enforcement Planner with any questions, to submit evidence of correction, and discuss the corrective steps to abate the violation. Should you need additional time to respond to and/or abate the violation, please discuss this with the assigned Enforcement Planner, who will assist you in developing a reasonable timeline.

Penalties and Appeal Rights

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day beyond the timeline to respond provided for the Notice of Violation if the violation is not abated. The Notice of Violation provides the following appeal options.

1. Request for Zoning Administrator Hearing. The Zoning Administrator's final decision is then appealable to the Board of Appeals.
2. Appeal of the Notice of Violation to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter was pending either before the Zoning Administrator or before the Board of Appeals.

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for ‘Time and Materials’ to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department’s Conditions of Approval. Accordingly, the responsible party is subject to an amount of **\$1,542** or more for “Time and Materials” cost associated with the Code Enforcement investigation. **This fee is separate from the administrative penalties described above and is not appealable.**

Other Applications Under Consideration

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation. We want to assist you to bring the subject property into full compliance with the Planning Code. You may contact the enforcement planner noted above for any questions on the enforcement and appeal process.

BRIEF SUBMITTED BY THE APPELLANT(S)

From: [Allie Lee](#)
To: [Longaway, Alec \(BOA\)](#)
Cc: [Teague, Corey \(CPC\)](#)
Subject: Re: NO. 26-026 @ 1261-1263 3RD AVENUE Brief
Date: Wednesday, May 27, 2026 5:55:14 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Members of the Board of Appeals,

I would like to provide additional background information regarding this appeal.

I purchased the building with the bathroom and partial kitchen already in existence. The work was performed by a previous owner without permits. I am attempting to comply with the City's requirements by removing the unpermitted work and discontinuing any dwelling use.

While the sleeping room ceiling height appears to comply with code requirements, the ceiling height in the bathroom and partial kitchen areas is very low, which further limits the suitability of the space for lawful residential occupancy.

In 2016, I voluntarily applied to legalize the unit under the City's amnesty program. A permit application was filed and architectural plans were submitted in good faith. However, the process became significantly delayed over many years, including during the pandemic period.

In addition, prior to the pandemic, my husband was diagnosed with cancer and sadly passed away two years ago. Since that time, my personal circumstances have changed significantly. I am currently living abroad and also dealing with ongoing health issues.

Given these circumstances, I respectfully request consideration of whether the proposed removal of the unpermitted kitchen and bathroom facilities, and discontinuance of dwelling use, may proceed through a simplified process without requiring a full Conditional Use Authorization for removal of the unit.

Thank you very much for your time and consideration.

Sincerely

Allie

On Wed, May 27, 2026 at 10:54 AM Longaway, Alec (BOA) <alec.longaway@sfgov.org> wrote:

Alec Longaway

Legal Assistant, San Francisco Board of Appeals

[49 South Van Ness, Suite 1475](#)

[San Francisco, CA 94103](#)

Work PH: 1-628-652-1152

Cell: 1-415-746-0119

The Board's physical office is open to the public by appointment only. Please email boardofappeals@sfgov.org or call 628-652-1150 if you would like to meet with a staff member.

All documents and emails submitted to the Board Office are public records. You are advised to redact information if you want it to remain confidential. Please contact the Board Office if you need assistance.

BRIEF SUBMITTED BY THE PLANNING DEPARTMENT



BOARD OF APPEALS BRIEF

HEARING DATE: July 15, 2026

July 2, 2026

Appeal No.: 26-026
Project Address: 1261-1263 3rd Avenue
Subject: Notice of Violation & Penalty Decision Case No. 2021-011425ENF
Block/Lot: 1752/003
Zoning District: RH-2 (Residential-House, Two Family)
Family and Senior Housing Opportunity SUD
Height/Bulk: 40//40-R-4
Staff Contact: Corey A. Teague, AICP, Zoning Administrator – (628) 652-7328
corey.teague@sfgov.org

The Notice of Violation & Penalty Decision (NoVPD) under appeal is specifically for an Unauthorized Dwelling Unit (UDU) located on the ground floor of the existing building (the subject building otherwise contains two legal dwelling units). The purpose of the NoVPD is to formally determine that a Planning Code Violation exists, and not to dictate which viable abatement options a property owner may choose to address the violation. The subject NoVPD clearly documents and establishes the existence of the UDU, which is a Planning Code violation. The property owner (Appellant) has conceded since 2016 that the UDU exists, including filing Building Permit Application No. 201612054132 to legalize the unit. However, that permit never progressed and was cancelled in 2025.

The existence of the UDU is also supported by Rent Board records, voter rolls, site visit documentation, and other sources. More specifically, a Sixty Day Notice to Terminate Tenancy filed by an attorney for the property owner states that the subject building contains three units and labels the third

unit as 1263A 3rd Avenue. Additionally, voter rolls from 2012, 2014, and 2016 list occupants within a unit labeled as 1263A. Finally, a site inspection conducted by Planning Department staff in August 2025 confirmed the UDU was occupied at that time.

The primary request of the Appellant is not related to the violation itself, but to the requirements under the Planning Code to abate the violation by removing the UDU, which requires a Conditional Use Authorization (CUA) from the Planning Commission. However, once a UDU is confirmed, the Department must follow the applicable provisions of the Planning Code. Specifically, Planning Code Section 317 defines a UDU and requires a CUA for the removal of a UDU unless it meets one of several exemptions that would allow removal without a CUA. In this case, the UDU is not eligible for any such exception, and its removal requires a CUA. Alternatively, the Appellant can continue the process to legalize the UDU as a separate unit. The content of the NoVPD provides more specific details regarding the violation and the Appellant's options to abate the violation.

Based on the information above and within the NoVPD itself, the Planning Code violation for the UDU is clearly established, and the Department respectfully requests that the Board deny the appeal.

cc: Allie Chen (Appellant)
Carey McElroy (Department of Building Inspection)