

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
LING LA,)
Appellant(s))
vs.)
ZONING ADMINISTRATOR,)
Respondent)

Appeal No. **25-046**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on October 28, 2025, 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 October 28, 2025, of a Letter of Determination (the request seeks confirmation whether the Unauthorized Dwelling Unit (UDU) at the subject property qualifies for a Conditional Use Authorization (CUA) exemption pursuant to Planning Code Section 317(c)(10); specifically, the question raised is whether the UDU was “rented for consideration” if it was previously occupied by a caregiver; the Zoning Administrator determined that the UDU was rented for consideration within the last ten years and does not qualify for a CUA exemption pursuant to Planning Code Section 317(c)(10)) at 807 44th Avenue.

APPLICATION NO. Record No. 2025-006107ZAD

FOR HEARING ON December 10, 2025

Address of Appellant(s):

Address of Other Parties:

Ling La, Appellant(s) 807 44th Avenue San Francisco, CA 94121	N/A
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Date Filed: October 28, 2025

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

PRELIMINARY STATEMENT FOR APPEAL NO. 25-046

I / We, **Ling La**, hereby appeal the following departmental action: **ISSUANCE** of a **Letter of Determination** (Record No. **2025-006107ZAD**) by the **Zoning Administrator** which was issued or became effective on: **October 28, 2025**, for the property located at: **807 44th Avenue**.

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **November 20, 2025, (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, Natalia.fossi@sfgov.org.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **December 4, 2025, (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, and lingla@hotmail.com

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

Hearing Date: **Wednesday, December 10, 2025, 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: Ling La, appellant

Board of Appeals – Preliminary Statement

Re: Letter of Determination, Record No. 2025-006107ZAD

Property Address: 807 44th Avenue, San Francisco, CA 94121

Appellant: Ling La

Date: October 28, 2025

PRELIMINARY STATEMENT

The Zoning Administrator’s determination that the Unauthorized Dwelling Unit (UDU) at 807 44th Avenue was “rented for consideration” within the last ten years is factually **unsupported** and legally erroneous. The conclusion rests entirely on an unverified claim by a former caregiver that she paid \$400 per month in rent pursuant to an oral agreement. No rent checks, receipts, or other reliable evidence were ever produced linking any payment to me as the property owner or to my physically and mentally disabled father who resided in the home. The documents referenced by Planning do not bear our names or the property address, and were never authenticated.

In the 2023 Board of Appeals case (No. 23-024), the Board merely revoked the prior demolition permit because DBI issued it in error based on incomplete information; the decision contained no finding that rent was paid or that a landlord-tenant relationship existed. Planning’s reliance on that prior proceeding to establish a landlord-tenant relationship improperly expands the scope of the Board’s decision and disregards due-process standards requiring verified evidence. The Department’s determination further ignores substantial evidence that the caregiver fabricated receipts and manipulated my disabled father’s finances while providing IHSS-funded care. Any alleged cash or check transactions were not rent payments to the property owner and cannot constitute “consideration” under Planning Code §317(c)(10).

Even assuming arguendo that funds changed hands, they were not made to me and did not form part of any rental exchange. Extending “rented for consideration” to encompass unverified personal dealings between a caregiver and a mentally incapacitated elderly person contradicts the plain language and intent of §317(c)(10). The City Rent Ordinance was designed to regulate rental activity, not to penalize families who provided housing to caregivers out of necessity and compassion.

During the subsequent appeal (No. 25-018), I presented a video clearly showing that the UDU is vacant. The Board was made aware that the unit is unoccupied and that I have made repeated good-faith efforts to resolve this matter. Unlike Appeal No. 23-024—where the Board was influenced by the caregiver’s sympathetic claims—there is now NO tenant to protect and no policy reason preventing removal. Yet Planning continues to deny demolition, leaving me trapped between conflicting rulings.

Further in my Appeal No 25-018, I sought a reasonable accommodation to retain the internal staircase used by the caregiver to assist my disabled father with daily care, laundry, and trash removal. That accommodation was not granted, leaving me no viable or affordable path to compliance. The cost of legalizing the UDU—or even removing the staircase—would impose severe financial hardship that I cannot bear despite all good-faith efforts. Ordinance No. 64-24 expressly allows consideration of such hardship in enforcement matters.

Accordingly, I respectfully request that the Board of Appeals overturn the Zoning Administrator’s determination and recognize that the UDU was not rented for consideration within the meaning of Planning Code §317(c)(10), and that the property owner should not be penalized for seeking a lawful, reasonable, and financially feasible resolution.

Sincerely,
Ling La



LETTER OF DETERMINATION

October 28, 2025

Ling La
807 44th Avenue
San Francisco, CA 94121

Record No.: **2025-006107ZAD**
Site Address: **807 44th Avenue**
Assessor's Block/Lot: 1687/001B
Zoning District: RH-2 (Residential-House, Two Family)
Family and Senior Housing Opportunity Special Use District
Staff Contact: Natalia Fossi – (628) 652-7306 or natalia.fossi@sfgov.org

Dear Ling La:

This letter is in response to your request for a Letter of Determination regarding the property at 807 44th Avenue. The request seeks confirmation whether the Unauthorized Dwelling Unit (UDU) at the subject property qualifies for a Conditional Use Authorization (CUA) exemption pursuant to Planning Code Section 317(c)(10). Specifically, the question raised is whether the UDU was “rented for consideration” if it was previously occupied by a caregiver.

The Board of Appeals determined that a UDU existed at the subject property through their decision for Appeal No. 23-024 for Building Permit No. 202201125846. Specifically, the permit proposed “demolition of non-code adu space in garage, 2 rooms, 1 bathroom and kitchen.” This permit was appealed by a tenant residing in the UDU at that time. Evidence used by the Board of Appeals to make the UDU determination includes the Appellant’s Brief, rent checks/receipts, and testimony heard at the hearing (all referenced documents may be found within Planning Department files for Appeal No. 23-024 and/or Enforcement Case No. 2022-000181ENF).

Specifically, the tenant stated that they had resided in the UDU since 2007 based on an oral rental agreement with the property owner and paid \$400 per month for rent. Further, the tenant provided caregiving services to the property owner from 2007 until Spring of 2020, but continued to reside at the UDU and pay rent without providing any caregiving services for the following three years. You confirmed during the July 26, 2023 Board of Appeals hearing that the appellant had provided caregiving services to family members within the primary unit and that they occupied the UDU at the time of that hearing.

Planning Code Section 317(c)(10) exempts certain UDUs with no tenant occupancy for 10 years from a CUA. Specifically, a CUA is not required if the project would result in the removal of a UDU in a single-family home if all the following conditions are met:

- (A) *Eligibility. The one-family dwelling shall meet all the following criteria:*
- (i) *the owner currently resides in the primary dwelling unit;*
 - (ii) *the Unauthorized Unit has not been rented for consideration in the last 10 years. For the purposes of this subsection (c)(10)(A)(ii), “rented for consideration” shall not include any use or tenancy of the Unauthorized Unit by a blood, adoptive, or step-family relationship, specifically by a grandparent, parent, sibling, child, or grandchild, or the spouse or registered domestic partner of such relations, or by a property owner’s spouse or registered domestic partner;*
 - (iii) *the owner intends to reside in the one-family dwelling for at least three years after the Removal of the Unauthorized Unit is approved; and*
 - (iv) *the owner enters into a regulatory agreement with the City subjecting the one-family dwelling to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) pursuant to subsection (c)(10)(B).*

Per Planning Code Section 317(c)(10)(A)(ii), “rented for consideration” shall not include any use or tenancy of the UDU by a blood, adoptive, or step-family relationship, or the spouse or registered domestic partner of such relations, as described above. In this case, the UDU was occupied by someone that was unrelated to the property owner and provided rental compensation through a combination of monetary payment and services rendered.

Therefore, based on the information provided above, **it is my determination** that the UDU at the subject property was “rented for consideration” within the last 10 years and does **not** qualify a CUA exemption pursuant to Planning Code Section 317(c)(10).

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

Ling La
807 44th Avenue
San Francisco, CA 94121

October 28, 2025
Letter of Determination
807 44th Avenue

APPEAL: An appeal may be filed with the Board of Appeals within 30 days of the date of this letter if you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator. Please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475, call (628) 652-1150, or visit www.sfgov.org/bdappeal.

Sincerely,



Corey A. Teague, AICP
Zoning Administrator

cc: Neighborhood Groups
Natalia Fossi, Deputy Zoning Administrator

BRIEF SUBMITTED BY THE APPELLANT(S)

SAN FRANCISCO BOARD OF APPEALS

APPELLANT’S BRIEF

Appeal of Zoning Administrator Determination No. 2025-006107ZAD

Property: 807 44th Avenue, San Francisco, CA 94121

Appellant: Ling La

Date Due: November 20, 2025

I. INTRODUCTION AND SUMMARY OF APPEAL

This appeal challenges the Zoning Administrator’s Letter of Determination dated October 28, 2025 (ZAD No. 2025-006107ZAD), which erroneously concluded that the Unauthorized Dwelling Unit (“UDU”) at 807 44th Avenue was “rented for consideration” within the last ten years and is therefore ineligible for removal under Planning Code §317(c)(10) as amended by Ordinance No. 64-24.

The determination rests entirely on an unverified statement by a former caregiver—an IHSS-paid worker who never paid rent, never had a lease, and occupied the space solely to provide care for Appellant’s 95-year-old disabled father. The City’s finding is unsupported by any credible evidence, misapplies the term “consideration,” and conflicts with prior City approvals recognizing that the UDU fails minimum ceiling-height standards and cannot be legalized under the San Francisco Housing Code.

Appellant respectfully requests that the Board overturn the Zoning Administrator’s determination and find the UDU eligible for removal under §317(c)(10) without Conditional Use Authorization (“CUA”).

II. STATEMENT OF FACTS

1. Property Background and Prior Appeals

The subject property is a single-family dwelling located at 807 44th Avenue. In 2022, Appellant filed Building Permit Application No. 202201125846 to remove the unpermitted improvements. DBI issued the permit, but a former caregiver filed **Appeal No. 23-024**, claiming tenant rights.

On July 26, 2023, the Board granted that appeal and ordered DBI to revoke the permit—not because rent was proven, but because the Board found DBI had issued the permit “in error based on incomplete information.” The Board made **no finding** that the unit had been rented or that a tenancy existed.

2. Legalization Attempt and Second Appeal

The permit sought to retain the existing internal staircase connecting the ground-floor area to the main level, which had been part of the home since its original construction. The staircase allows caregivers to access essential household areas used for laundry, trash disposal, and other daily chores necessary to support Appellant’s 95-year-old father, who is physically and mentally disabled.

During the hearing for Appeal No. 25-018, Appellant presented video evidence showing that the alleged UDU was entirely vacant—no one occupied the space (see Exhibit C), and it was being used solely for household and caregiving functions. The video also demonstrated how the interior stairs served as a safe and practical means for caregivers to move between floors to perform critical tasks for the disabled resident.

Despite this clear evidence, the Board of Appeals failed to acknowledge the caregiving necessity of the internal connection. Instead, the Board upheld the Planning Department’s disapproval based solely on an abstract interpretation of “Residential Merger,” disregarding both the property’s actual use and the accessibility needs of the disabled resident.

3. **Zoning Administrator Determination (ZAD No. 2025-006107ZAD)**

Following the 2025 appeal, Appellant sought relief under **Planning Code §317(c)(10)** to remove the UDU without CUA. The Zoning Administrator denied eligibility, asserting that the caregiver paid \$400 per month in rent under an oral agreement. No canceled checks, or bank records were produced, and none of the alleged receipts bore Appellant’s or her father’s name.

4. **Caregiver’s Role and Lack of Rent**

The alleged occupant was a caregiver paid by the **In-Home Supportive Services (IHSS)** program, not by Appellant. She was permitted to stay temporarily as part of her caregiving duties for Appellant’s disabled father, not as a renter. No rental agreement existed, and no rent was ever received by Appellant, the property owner.

5. **Physical Code Deficiencies and City’s Own Approval**

The ground-floor rooms have ceiling heights of approximately **7 feet 6 inches** and **7 feet**. In a prior plan submitted to remove the internal staircase, the **7' room was designated as “storage,”** (see Exhibit B) which Planning approved—thereby recognizing the space as **non-habitable** under **Housing Code §503(a)**. This directly establishes that the UDU cannot be legalized under current standards, qualifying it for removal under **Ordinance No. 64-24** (see Exhibit A)

6. **Reasonable Accommodation Request**

Appellant also sought a **Reasonable Modification** to retain the internal staircase to allow caregiving access for her disabled father. That accommodation was denied, leaving no viable compliance path

short of costly demolition or CUA. The financial burden of either option exceeds Appellant's means, despite her ongoing good-faith efforts to resolve the matter.

III. LEGAL FRAMEWORK

A. Planning Code §317(c)(10) and Ordinance No. 64-24

Section 317(c)(10), as amended by Ordinance No. 64-24, permits removal of a UDU **without CUA** if:

1. The owner resides in the primary dwelling;
2. The UDU has **not been rented for consideration** within the last ten years; and
3. The owner records a rent-stabilization regulatory agreement.

It further applies where the UDU **cannot be legalized** due to failure to meet **minimum floor-to-ceiling height, exposure, or open-space** standards.

B. Housing Code §503(a)

The Housing Code requires a minimum ceiling height of **7 feet 6 inches** for habitable rooms. Any space with less height cannot qualify as a legal dwelling.

C. Fair Housing and ADA Principles

Under **28 C.F.R. §35.130(b)(7)**, the City must consider requests for reasonable modifications to accommodate disabilities, unless doing so would impose an undue financial or administrative burden.

This framework supports equitable consideration of Appellant’s staircase request and financial limitations.

IV. ARGUMENT

A. The Caregiver Was Not a Tenant and No Rent Was Paid

The determination’s foundation—that \$400 per month was paid as rent—is unsupported. The caregiver was an **IHSS-funded employee**, not a tenant. She never paid rent to Appellant, and no oral or written lease was ever established. The receipts shown by the caregiver did not have any name (as landlord/agent) or the property address. Any transactions between the caregiver and Appellant’s elderly father were personal, unverified, and unrelated to rent. Planning’s reliance on this claim lacks evidentiary basis.

B. The Board’s 2023 Decision Contained No Finding of Rent

Appeal No. 23-024 resulted only in revocation of the demolition permit because DBI acted “based on incomplete information.” The Board made no finding of tenancy or rent payment. The Zoning Administrator’s reliance on that order as proof of rent constitutes a **legal and factual error**.

C. The UDU Cannot Be Legalized Due to Substandard Ceiling Height

The unit includes a room with a **7’ ceiling**, which Planning itself approved as **storage** in prior plans. This acknowledgment confirms that the UDU cannot meet Housing Code §503(a) standards and therefore cannot be legalized. Under Ordinance No. 64-24, such a unit qualifies for removal **without Conditional Use Authorization**.

D. Planning’s Interpretation of “Rented for Consideration” Is Overbroad

“Consideration” under §317(c)(10) requires a true exchange of value between owner and occupant. No such exchange occurred here. Extending the definition to cover unverified, third-party claims between a caregiver and a dependent senior improperly broadens the ordinance and undermines its purpose.

E. Failure to Grant Reasonable Accommodation

Appellant previously sought to retain the internal staircase used by caregivers to access laundry and trash facilities for the disabled resident. Denying that request ignored federal accessibility principles requiring reasonable modifications absent undue burden. The City’s refusal effectively forced Appellant into this demolition route.

F. Financial Burden and Legislative Intent

While Ordinance No. 64-24 does not expressly mention financial hardship, its legislative purpose was to **reduce burdens** for small property owners unable to legalize UDUs that fail code standards. The cost of legalization, staircase removal, or CUA far exceeds Appellant’s resources and would impose precisely the hardship the ordinance sought to prevent. Consistent with Fair Housing and ADA standards, the City must consider financial feasibility when enforcing compliance.

G. City’s Inconsistent and Arbitrary Enforcement

The City’s actions across three appeals are contradictory:

- In 2023, it barred demolition claiming the UDU existed;
- In 2024, it blocked legalization citing “merger”; and

- In 2025, it denied removal under §317(c)(10) citing a fabricated rent claim.

These inconsistent positions demonstrate arbitrary enforcement that deprives the property owner of any feasible compliance path, contrary to principles of fairness and administrative due process.

V. CONCLUSION

For all the reasons stated above, Appellant respectfully requests that the Board of Appeals:

1. **Overtturn** the Zoning Administrator's Determination No. 2025-006107ZAD;
2. **Find** that the UDU at 807 44th Avenue was **not rented for consideration** within the last ten years;
3. **Recognize** that the unit fails minimum ceiling-height standards and cannot be legalized; and
4. **Declare** that the UDU is eligible for removal without Conditional Use Authorization pursuant to Planning Code §317(c)(10) and Ordinance No. 64-24.

Appellant further requests that the Board consider the significant financial and practical hardship imposed by continued enforcement and direct the Planning Department to allow removal of the UDU consistent with the intent of Ordinance No. 64-24.

Respectfully submitted,



Ling La

Appellant

EXHIBIT A

1 [Planning, Administrative Codes - Conditional Use Authorization for Removal of Unauthorized
2 Unit]

3 Ordinance amending the Planning Code to waive the Conditional Use Authorization
4 requirement for removal of an unauthorized unit in a single-family home where the
5 owner satisfies certain eligibility criteria, waive the Conditional Use Authorization
6 requirement for removal of an unauthorized unit where that unit requires and is
7 ineligible for waivers from does not satisfy open space, or dwelling unit exposure
8 requirements, or the unit does not meet minimum floor area and floor-to-ceiling height
9 requirements, and update the required Conditional Use Authorization findings for
10 removal of an unauthorized unit to account for the history of tenancies in that unit;
11 amending the Administrative Code to require that where an owner obtains an
12 exemption from the Conditional Use Authorization requirement to remove an
13 unauthorized unit from a qualifying single-family home, the single-family home shall be
14 subject to the rent increase limitations of the Rent Ordinance; affirming the Planning
15 Department's determination under the California Environmental Quality Act; and
16 making findings of consistency with the General Plan and the eight priority policies of
17 Planning Code, Section 101.1, and adopting findings of public necessity, convenience,
18 and welfare under Planning Code, Section 302.

19
20 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
21 **Additions to Codes** are in *single-underline italics Times New Roman font*.
22 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
23 **Board amendment additions** are in double-underlined Arial font.
24 **Board amendment deletions** are in ~~strikethrough Arial font~~.
25 **Asterisks (* * * *)** indicate the omission of unchanged Code
subsections or parts of tables.

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

1
2 Section 1. CEQA and Land Use Findings.

3 (a) The Planning Department has determined that the actions contemplated in this
4 ordinance comply with the California Environmental Quality Act (California Public Resources
5 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
6 Supervisors in File No. 231185 and is incorporated herein by reference. The Board affirms
7 this determination.

8 (b) On January 18, 2024, the Planning Commission, in Resolution No. 21489, adopted
9 findings that the actions contemplated in this ordinance are consistent, on balance, with the
10 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
11 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
12 Board of Supervisors in File No. 231185, and is incorporated herein by reference.

13 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
14 amendments will serve the public necessity, convenience, and welfare for the reasons set
15 forth in Planning Commission Resolution No. 21489, and the Board adopts such reasons as
16 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
17 No. 231185 and is incorporated herein by reference.

18
19 Section 2. Background and Findings.

20 (a) San Francisco faces a continuing shortage of affordable housing. The General
21 Plan recognizes that existing housing is the greatest stock of rental and financially accessible
22 residential units, and is a resource in need of protection. To that end, Planning Code Section
23 317 requires a Conditional Use Authorization (CUA) prior to approval of any permit that would
24 remove existing housing, with certain exceptions.
25

1 (b) Section 317 also applies to removal of Unauthorized Units, or “UDUs,” defined as
2 one or more rooms within a building that have been used, without the benefit of a building
3 permit, as a separate and distinct living or sleeping space independent from the residential
4 units on the same property. In some instances, an unpermitted ground floor bedroom and
5 bathroom in a single-family home may be considered a UDU.

6 (c) Some families purchase single-family homes with no knowledge that the property
7 contains a UDU. For example, at some point after the purchase, families may learn of the
8 UDU when they apply for a building permit to connect the ground-floor bedroom and bathroom
9 with the living spaces on the upper floors. Families in these situations face the high costs of
10 either legalizing the UDU or obtaining a CUA for its removal. In addition to these costs,
11 legalization is not desirable for some homeowners, as some homeowners wish to integrate
12 the separated UDU space with the existing single-family home by, for example, removing
13 internal staircases, walls or doorways, which present internal barriers to growing families or
14 intergenerational living arrangements

15 (d) This ordinance waives the CUA requirement for removal of a UDU in owner-
16 occupied single-family homes where the unit has not been rented for the last 10 years, except
17 to a qualifying member, as defined in the ordinance. Project sponsors that utilize the CUA
18 waiver must enter into regulatory agreements with the City acknowledging that, in
19 consideration for this waiver, the existing unit will be subject to local rent control
20 notwithstanding the Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50
21 et seq.).

22 (e) Facilitating the removal of UDUs in single-family homes may lead to speculative
23 real estate investments that may seek to maximize profits by displacing current residents,
24 demolishing existing housing stock, absorbing the UDU into a large, remodeled single-family
25 home, and quickly selling those homes. To discourage such speculation and displacement,

1 this ordinance waives the CUA requirement only where the UDU has not been occupied by a
2 tenant in the past 10 years, except where the UDU was occupied by a blood, adoptive, or
3 step-family relative of the owner or the owner's spouse or registered domestic partner.
4 Additionally, the benefits of this ordinance are available only where the owner resides in the
5 primary dwelling unit at the time of application to remove the UDU and intends to remain in
6 the primary dwelling unit for at least three years after removal of the UDU is approved.

7 (f) This ordinance also implements policies and actions adopted in the 2022-2031
8 Housing Element as they pertain to UDUs and facilitating the living needs of multi-
9 generational families. Under current law, removal of a UDU does not require a CUA if the
10 Department of Building Inspection determines that there is no path for legalization under
11 Section 106A.3.1.3 of the Building Code. This ordinance replaces that no-legalization
12 determination with the following objective criteria: whether the UDU satisfies the open space
13 requirements of Planning Code Section 135, the dwelling unit exposure requirements of
14 Planning Code Section 140, or the minimum legal floor-to-ceiling height requirement in the
15 Housing Code. This ordinance also updates the required Conditional Use Authorization
16 findings under Section 317 to account for the history of tenancies in a UDU. Further, this
17 ordinance clarifies that the removal of a UDU pursuant to a permit does not trigger the
18 penalties in Planning Code Section 176(c)(1)(C)(i).

19
20 Section 3. The Planning Code is hereby amended by revising Sections 176 and 317,
21 to read as follows:

22
23 **SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.**

24 * * * *

25 (c) **Penalties.**

1 (1) **Administrative Penalties.**

2 * * * *

3 (C) **Penalties for Specified Violations.**

4 (i) **Alteration, Merger, Construction, or Demolition of**
5 **Residential Units without a Permit.** For any *unpermitted* alteration, merger, construction, or
6 demolition of any building or structure containing one or more Residential Units, including
7 work that takes place in violation of Section 317 of this Code, on or after March 1, 2023,
8 resulting in the addition of more than three unauthorized Residential Units, or the loss of one
9 or more Residential Units, (1) the owner of that building shall be required to apply for a
10 replacement project under section 317 of this Code, and (2) the Responsible Party shall be
11 liable for a penalty of up to \$250,000 upon issuance of a Notice of Violation for each
12 Residential Unit added or lost through such alteration, merger, or demolition. Within 12
13 months of the effective date of the ordinance in Board File No. 220878 amending this Section
14 176, the Planning Commission shall adopt factors and criteria for consideration, to be updated
15 from time to time, to provide guidance to the Zoning Administrator when determining the
16 appropriate penalty amount for violations subject to this subsection (c)(1)(C)(i).

17 * * * *

18
19 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**
20 **DEMOLITION, MERGER, AND CONVERSION.**

21 * * * *

22 (c) **Applicability; Exemptions.**

23 (1) Within the Priority Equity Geographies Special Use District, any application
24 for a permit that would result in the Removal of one or more Residential Units or Unauthorized
25 Units is required to obtain Conditional Use authorization.

1 * * * *

2 **(7) Exemptions for Unauthorized Dwelling Units.** The Removal of an
3 Unauthorized Unit does not require a Conditional Use authorization pursuant to subsections
4 (c)(1) or (c)(2) ~~if the Department of Building Inspection has determined that there is no path for~~
5 ~~legalization under Section 106A.3.1.3 of the Building Code.~~ ~~if the Unauthorized Unit does not~~
6 ~~comply with any of the following:~~

7 _____ ~~(A) the Unauthorized Unit requires a waiver of the open space~~
8 ~~requirements of Section 135 or dwelling unit exposure requirements, and the Unauthorized~~
9 ~~Unit is ineligible for a waiver or exemption from those standards pursuant to Section 307,~~
10 ~~Section 207(c)(4) (Accessory Dwelling Units - Local Program), Section 207(c)(6) (Accessory~~
11 ~~Dwelling Units - State Mandated Program), or Section 207.3 (Dwelling Unit Legalization~~
12 ~~Program); or~~

13 _____ ~~(B) the dwelling unit exposure requirements of Section 140; or~~

14 _____ ~~(C)(B) the Unauthorized Unit has no contiguous area that meets both the~~
15 ~~required minimum superficial floor area in Housing Code Section 503(b) and the minimum legal~~
16 ~~floor-to-ceiling height requirement in the Housing Code Section 503(a).~~

17 * * * *

18 _____ ***(10) Exception for Certain Unauthorized Units with No Tenant Occupant for 10***
19 ***Years.*** ~~The Conditional Use requirement of subsections (c)(1) and (c)(2) shall not apply to an~~
20 ~~application for a permit that would result in the Removal of an Unauthorized Unit in a one-family~~
21 ~~dwelling where all of the conditions in subsection (c)(710)(A) are met. To establish eligibility, the~~
22 ~~owner shall furnish a declaration under penalty of perjury on a form prescribed by the Department,~~
23 ~~attesting to compliance with all of the conditions in subsection (c)(710)(A).~~

24 _____ ***(A) Eligibility.*** ~~The one-family dwelling shall meet all the following criteria:~~

25 _____ ~~(i) the owner currently resides in the primary dwelling unit;~~

1 Section 1954.52(b), the property owner has entered into and agreed to the terms of the agreement with
2 the City in consideration for other forms of assistance or other direct financial contribution specified in
3 California Government Code Section 65915 et seq.;

4 _____ (ii) A description of the forms of assistance or other direct financial
5 contribution provided to the property owner; and

6 _____ (iii) A description of the remedies for breach of the agreement and other
7 provisions to ensure implementation and compliance with the agreement.

8 * * * *

9 (f) **Residential Merger.** The Merger of Residential Units, not otherwise subject to
10 Conditional Use authorization by this Code, or exempted from the Conditional Use requirement by
11 this Section 317, shall be prohibited.

12 (g) **Conditional Use Criteria.**

13 * * * *

14 (7) **Removal of Unauthorized Units.** In addition to the criteria set forth in
15 subsections (g)(1) through (g)(4) above, the Planning Commission shall consider the criteria
16 below in the review of applications for removal of Unauthorized Units:

17 _____ ~~(A) whether the costs to legalize the Unauthorized Unit or Units under the Planning,~~
18 ~~Building, and other applicable Codes is reasonable based on how such cost compares to the average~~
19 ~~cost of legalization per unit derived from the cost of projects on the Planning Department's Master List~~
20 ~~of Additional Dwelling Units Approved required by Section 207.3(k) of this Code;~~

21 _____ ~~(B) whether it is financially feasible to legalize the Unauthorized Unit or Units. Such~~
22 ~~determination will be based on the costs to legalize the Unauthorized Unit(s) under the Planning,~~
23 ~~Building, and other applicable Codes in comparison to the added value that legalizing said Units~~
24 ~~would provide to the subject property. The gain in the value of the subject property shall be based on~~
25 ~~the current value of the property with the Unauthorized Unit(s) compared to the value of the property if~~

1 ~~the Unauthorized Unit(s) is/are legalized. The calculation of the gain in value shall be conducted and~~
2 ~~approved by a California licensed property appraiser. Legalization would be deemed financially~~
3 ~~feasible if gain in the value of the subject property is equal to or greater than the cost to legalize the~~
4 ~~Unauthorized Unit.~~

5 ~~_____ (C) If no City funds are available to assist the property owner with the cost of~~
6 ~~legalization, whether the cost would constitute a financial hardship.~~

7 _____ (A) whether the Unauthorized Unit has been rented within the 10 years
8 preceding the application, excluding any use of the Unauthorized Unit by a blood, adoptive, or step-
9 family relationship, specifically by a grandparent, parent, sibling, child, or grandchild, or the spouse
10 or registered domestic partner of such relations, or by a property owner's spouse or registered
11 domestic partner;

12 _____ (B) whether the Unauthorized Unit has a history of evictions under
13 Administrative Code Sections 37.9(a)(8)-(12) or 37.9(a)(14)-(16) within the 10 years preceding the
14 application.

15 * * * *

16
17 Section 4. Chapter 37 of the Administrative Code is hereby amended by revising
18 Sections 37.2 and 37.3, to read as follows:

19
20 **SEC. 37.2. DEFINITIONS.**

21 * * * *

22 (r) **Rental Units.** All residential dwelling units in the City together with the land and
23 appurtenant buildings thereto, and all housing services, privileges, furnishings, and facilities
24 supplied in connection with the use or occupancy thereof, including garage and parking
25 facilities.

1 * * * *

2 The term "rental units" shall not include:

3 * * * *

4 (4) Except as provided in subsections (A)-(~~ED~~), dwelling units whose rents are
5 controlled or regulated by any government unit, agency, or authority, excepting those
6 unsubsidized and/or unassisted units which are insured by the United States Department of
7 Housing and Urban Development; provided, however, that units in unreinforced masonry
8 buildings which have undergone seismic strengthening in accordance with Building Code
9 Chapters 16B and 16C shall remain subject to the Rent Ordinances to the extent that the
10 ordinance is not in conflict with the seismic strengthening bond program or with the program's
11 loan agreements or with any regulations promulgated thereunder;

12 * * * *

13 (D) The term "rental units" shall include (i) Accessory Dwelling Units
14 constructed pursuant to Section 207(c)(4) of the Planning Code and that have received a
15 complete or partial waiver of the density limits and the parking, rear yard, exposure, or open
16 space standards from the Zoning Administrator pursuant to Planning Code Section 307(l), and
17 (ii) New Unit(s) constructed and funded pursuant to Administrative Code Chapter 85; (iii) new
18 dwelling units created pursuant to the density exception set forth in Section 207(c)(8) of the
19 Planning Code; (iv) new dwelling units created pursuant to the HOME-SF Program set forth in
20 Section 206.3(c)(1)(B) of the Planning Code; ~~and~~ (v) new dwelling units created pursuant to
21 the density exception set forth in Section 249.94(d)(1) of the Planning Code-; and (vi) dwelling
22 units that obtain the exemption from the conditional use authorization set forth in Section 317(c)(7-10)
23 of the Planning Code.

24 * * * *

1 **SEC. 37.3. RENT LIMITATIONS.**

2 **(a) Rent Increase Limitations for Tenants in Occupancy.** Landlords may impose
3 rent increases upon tenants in occupancy only as provided below and as provided by
4 subsections 37.3(d) and 37.3(g):

5 * * * *

6 **(d) Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.).**
7 Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. et seq.)
8 and regardless of whether otherwise provided under Chapter 37:

9 **(1) Property Owner Rights to Establish Initial and All Subsequent Rental**
10 **Rates for Separately Alienable Parcels.**

11 (A) An owner of residential real property may establish the initial and all
12 subsequent rental rates for a dwelling or a unit which is alienable separate from the title to any
13 other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b),
14 (d), or (f) of Section 11004.5 of the California Business and Professions Code. The owner's
15 right to establish subsequent rental rates under this paragraph shall not apply to a dwelling or
16 unit where the preceding tenancy has been terminated by the owner by notice pursuant to
17 California Civil Code Section 1946 or has been terminated upon a change in the terms of the
18 tenancy noticed pursuant to California Civil Code Section 827; in such instances, the rent
19 increase limitation provisions of Chapter 37 shall continue to apply for the duration of the new
20 tenancy in that dwelling or unit.

21 * * * *

22 (D) An owner's right to establish subsequent rental rates under
23 subsection 37.3(d)(1) shall not apply to a dwelling or unit that is a new dwelling unit created
24 pursuant to the Code provisions specified in subsection~~Section~~ 37.2(r)(4)(D), or a dwelling unit
25 that utilizes the Code provisions specified in subsection 37.2(r)(4)(D).

1 Section 56. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within 10 days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 67. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

12
13 Section 78. Severability. If any section, subsection, sentence, clause, phrase, or word
14 of this ordinance, or any application thereof to any person or circumstance, is held to be
15 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining portions or applications of the ordinance. The
17 Board of Supervisors hereby declares that it would have passed this ordinance and each and
18 every section, subsection, sentence, clause, phrase, and word not declared invalid or
19 unconstitutional without regard to whether any other portion of this ordinance or application
20 thereof would be subsequently declared invalid or unconstitutional.

21
22 //

23
24 //

1 Section 89. No Conflict with Federal or State Law. Nothing in this ordinance shall be
2 interpreted or applied so as to create any requirement, power, or duty in conflict with any
3 federal or state law.
4

5 APPROVED AS TO FORM:
6 DAVID CHIU, City Attorney

7 By: /s/ Giulia Gualco-Nelson
8 GIULIA GUALCO-NELSON
9 Deputy City Attorney

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City and County of San Francisco
Tails
Ordinance

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

File Number: 231185

Date Passed: March 19, 2024

Ordinance amending the Planning Code to waive the Conditional Use Authorization requirement for removal of an unauthorized unit in a single-family home where the owner satisfies certain eligibility criteria, waive the Conditional Use Authorization requirement for removal of an unauthorized unit where that unit requires and is ineligible for waivers from open space, or dwelling unit exposure requirements, or the unit does not meet minimum floor area and floor-to-ceiling height requirements, and update the required Conditional Use Authorization findings for removal of an unauthorized unit to account for the history of tenancies in that unit; amending the Administrative Code to require that where an owner obtains an exemption from the Conditional Use Authorization requirement to remove an unauthorized unit from a qualifying single-family home, the single-family home shall be subject to the rent increase limitations of the Rent Ordinance; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1, and adopting findings of public necessity, convenience, and welfare under Planning Code, Section 302.

March 04, 2024 Land Use and Transportation Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

March 04, 2024 Land Use and Transportation Committee - RECOMMENDED AS AMENDED

March 12, 2024 Board of Supervisors - PASSED ON FIRST READING

Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Safai, Stefani and Walton
Excused: 1 - Ronen

March 19, 2024 Board of Supervisors - FINALLY PASSED

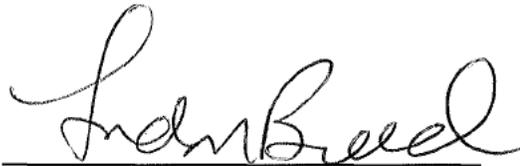
Ayes: 10 - Chan, Dorsey, Engardio, Mandelman, Melgar, Peskin, Preston, Safai, Stefani and Walton
Excused: 1 - Ronen

File No. 231185

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 3/19/2024 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board

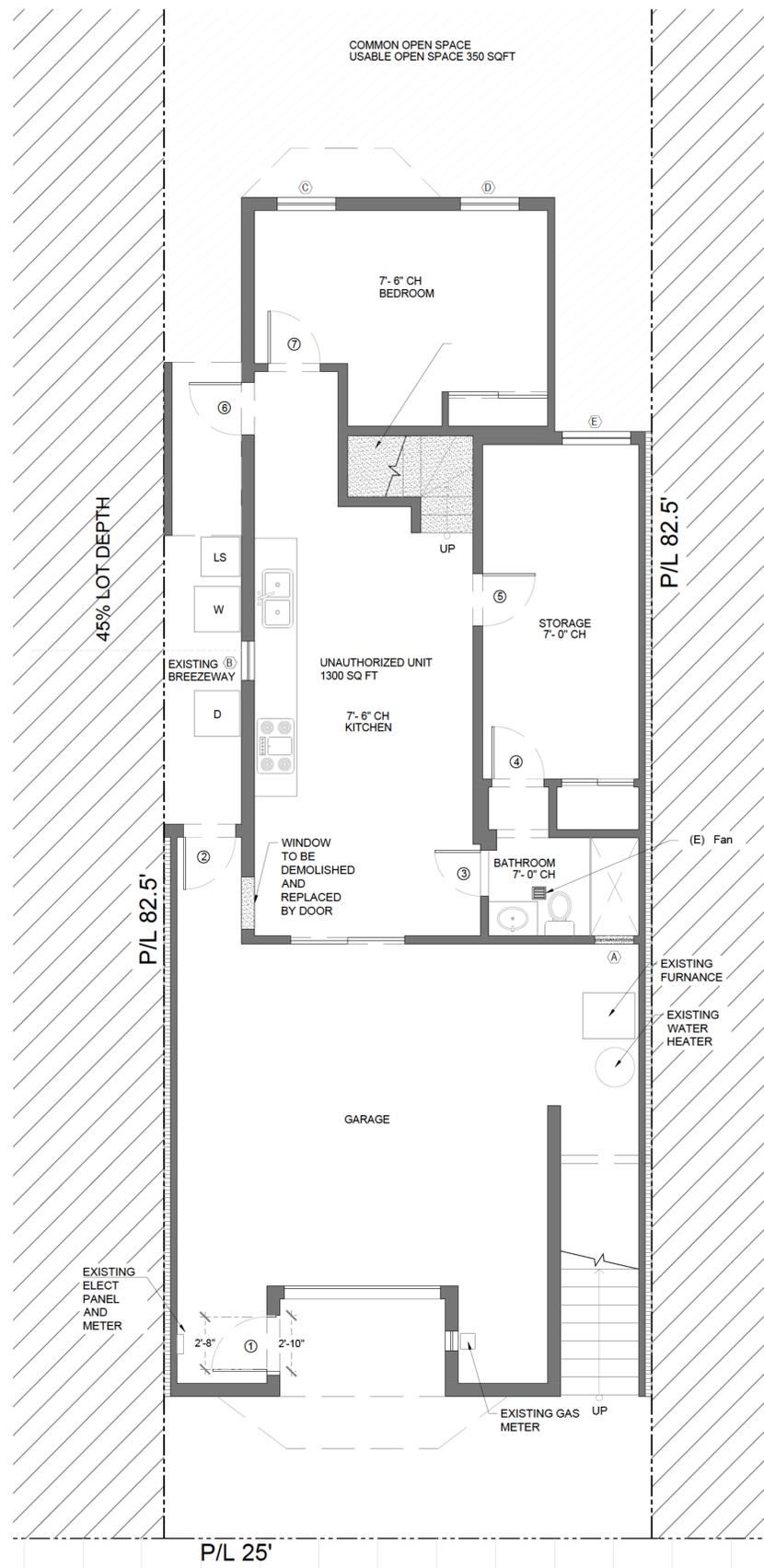


London N. Breed
Mayor

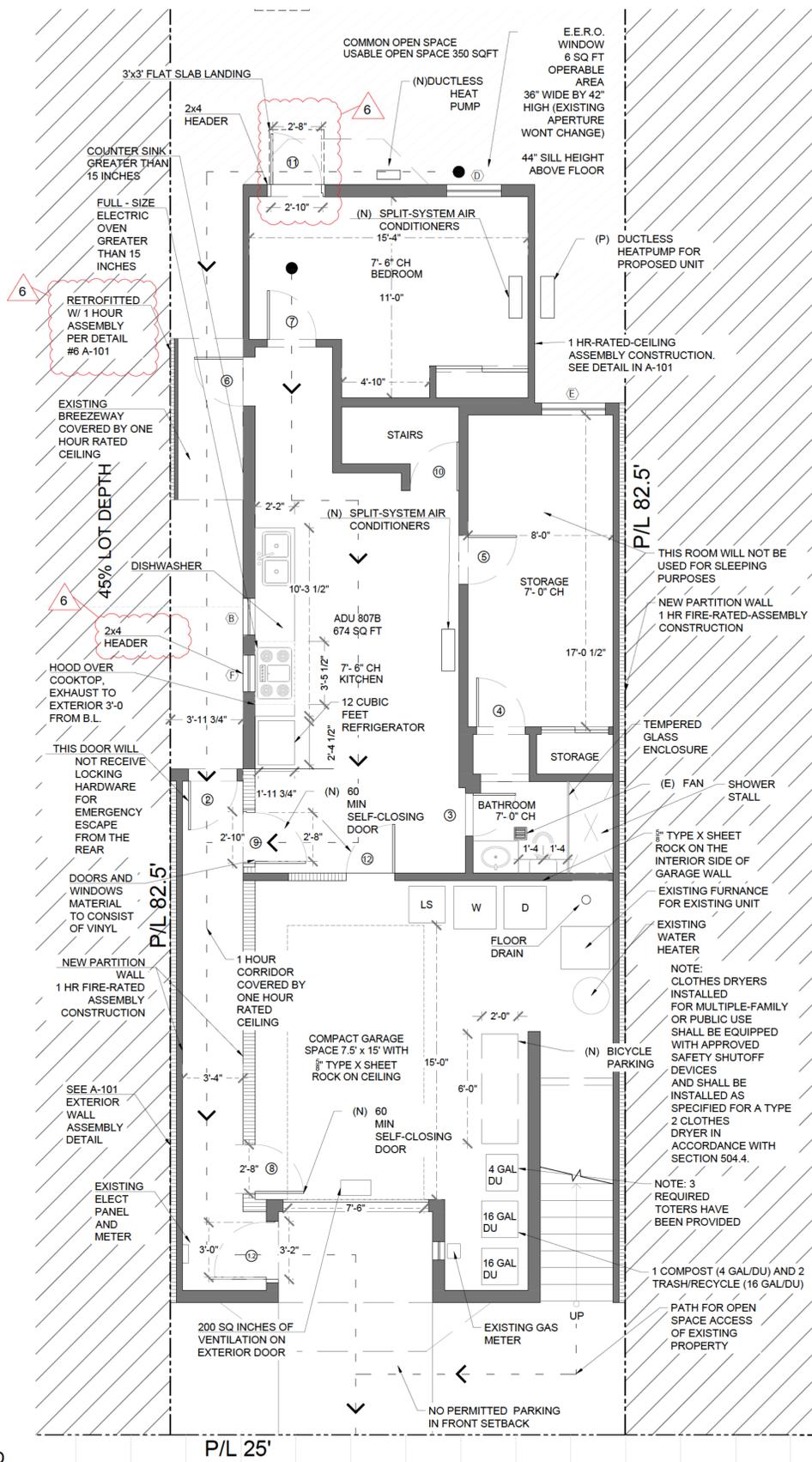
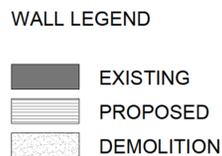
3/28/24

Date Approved

EXHIBIT B

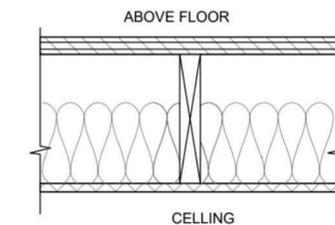


3 EXISTING AND DEMOLITION FIRST FLOOR PLAN
1/4" = 1'-0"



4 PROPOSED FIRST FLOOR PLAN
1/4" = 1'-0"

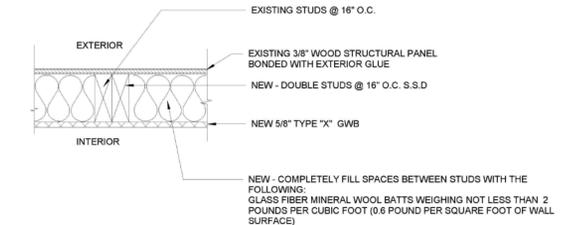
NOTE: ENTIRE GROUND FLOOR DWELLING UNIT SHALL BE PROVIDED WITH THE ASSEMBLY DETAIL SHOWN BELOW



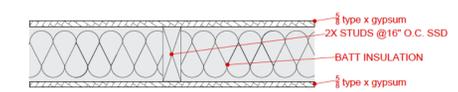
GA FILE NO. FC 5420
TEST NUMBER UL DES L501

ONE LAYER 5/8" SHEETROCK FIRECODE CORE
GYPSUM PANEL, CEILING
1" NOMINAL WOOD SUBFLOOR AND 1" NOMINAL WOOD FINISHED FLOOR
2 x JOISTS AT 16" O.C. S.S.D
JOINTS FINISHED
BATT INSULATION
MINIMUM CLASS B ROOF MEMBRANE

5 1 HR RATED ROOF / CEILING ASSEMBLY



6 (E) EXTERIOR WALL TO BE RETROFITTED TO 1 HR RATED
NOT TO SCALE



7 (P) INTERIOR 1 HR FIRE RATED ASSEMBLY DETAIL
1/4" = 1'-0"

GENERAL NOTE

1. ALL EXISTING NORTHERN AND SOUTHERN EXTERIOR WALLS THAT HAVE INTERIOR WALL COVERINGS REMOVED FOR REMODELING PURPOSES SHALL BE RECOVERED WITH 5/8" TYPE X SHEETROCK.
2. PER OMC 908.2.2, CLOTHES DRYERS INSTALLED FOR MULTIPLE-FAMILY OR PUBLIC USE SHALL BE EQUIPPED WITH APPROVED SAFETY SHUTOFF DEVICES AND SHALL BE INSTALLED AS SPECIFIED FOR A TYPE 2 CLOTHES DRYER IN ACCORDANCE WITH SECTION 504.4.

ARCHITECTS SF

SF ARCHITECTS

Address: PO BOX 46895 SAN FRANCISCO, CA 94142
Phone: (415) 519-4654
Email: francois@architects-sf.com

#	Revisions	Date
2	202309227235	1/3/2024
3	202309227235	1/23/2024
4	202309227235	2/27/2024
5	202309227235	6/27/2024
6	202309227235	8/30/2024



PROJECT: **807 44th Ave.**
San Francisco, CA 94121
BLOCK/LOT: 1687/001B

DRAWING TITLE: **EXISTING / PROPOSED FIRST FLOOR PLAN**

A-101

EXHIBIT C



May 06, 2025 3:44 PM

May 6

3:48 PM • San Francisco Peninsula



0:53 / 1:46



0:54 / 1:46

BRIEF SUBMITTED BY THE PLANNING DEPARTMENT



BOARD OF APPEALS BRIEF

HEARING DATE: January 14, 2026

January 8, 2026

Appeal Nos.: 25-046
Project Address: 807 44th Avenue
Subject: Letter of Determination Case No. 2025-006107ZAD
Zoning/Height: RH-2 / 40-X
Family and Senior Housing Opportunity SUD
Staff Contact: Corey A. Teague, AICP, Zoning Administrator – (628) 652-7328
corey.teague@sfgov.org

Background

This property first came before the Board of Appeals in 2023 when an issued building permit to alter the downstairs space of the existing building to remove the unauthorized kitchen and bathroom was appealed (Appeal No. 23-024) by a person claiming to be a prior tenant of the space. Based on the testimony and documentation provided as part of that case, the Board determined the downstairs space was an Unauthorized Unit (UDU) per Planning Code Section 317 and was therefore required to be legalized as a Dwelling Unit or a Conditional Use Authorization (CUA) from the Planning Commission was required to remove the UDU. As such, the Board unanimously granted the appeal and denied the building permit. The Appellant's brief for Appeal No. 23-034 is provided (without exhibits) as Exhibit A.

The Board heard a related case in April of 2025 wherein the property owner appealed (Appeal No. 25-018) the denial of a building permit to legalize the UDU as an Accessory Dwelling Unit (ADU). The permit had been denied because it included an open connection between the primary Dwelling Unit upstairs and the

proposed ADU downstairs. Pursuant to a long-standing Zoning Administrator interpretation, such an open connection between Dwelling Units is considered a merger, and therefore not permitted when creating new Dwelling Units. The Board unanimously denied that appeal.

The Property owner subsequently requested a Letter of Determination to confirm if the UDU may be removed without a CUA pursuant to Planning Code Section 317(c)(10). This section allows a UDU to be removed without a CUA if it meets all of the following:

1. the owner currently resides in the primary dwelling unit;
2. **the Unauthorized Unit has not been rented for consideration in the last 10 years [emphasis added]**. For the purposes of this subsection (c)(10)(A)(ii), “rented for consideration” shall not include any use or tenancy of the Unauthorized Unit by a blood, adoptive, or step-family relationship, specifically by a grandparent, parent, sibling, child, or grandchild, or the spouse or registered domestic partner of such relations, or by a property owner’s spouse or registered domestic partner;
3. the owner intends to reside in the one-family dwelling for at least three years after the Removal of the Unauthorized Unit is approved; and
4. the owner enters into a regulatory agreement with the City subjecting the one-family dwelling to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) pursuant to subsection (c)(10)(B).

In their request, the Appellant claimed that the UDU had not been “rented for consideration” within the last 10 years and that the prior caregiver that had occupied the UDU had no lease and paid no rent. The Letter of

Determination found that the UDU had in fact been rented for consideration and therefore was not eligible for this Planning Code provision.

Key Points

A declaration filed with the prior tenant's brief for Appeal No. 23-024 included a signed declaration that included statements that they moved into the UDU in 2007 and started at a rent of \$400 per month in 2008. They also claimed that other family members occupied the UDU over time and also paid rent. Exhibits to that declaration included receipts for "rent" of varying lengths of time and amounts. While those receipts cannot be verified, the prior tenant's testimony and documentation were substantially relied upon by the Board to determine that the downstairs space was in fact a UDU because it had 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." Please see the full declaration for additional information, which is provided as Exhibit B.

The Appellant (property owner) does not dispute that there were prior tenants or that the space is a UDU. While they claim no rent was ever collected, they do acknowledge that the living arrangement was provided to accommodate in-home health services to an elderly occupant of the primary residence for many years, as well as other housekeeping work.

The Planning Code does not further define the term "rented for consideration." However, the common understanding of the term "rented for consideration" is not limited only to monetary payments, but may also include other forms of payment, service, or exchange. In this case, my determination relied both on the prior Board of Appeals case and decision regarding the likelihood of money being paid to rent the UDU in the past, as well as the confirmed exchange of caregiving service for living accommodations. While the Appellant and former tenant verify that the prior tenant was paid for the caregiving by a third party, that does not negate the fact that the Appellant also provided the prior tenant to occupy the downstairs as a separate unit for the sole purpose of

Board of Appeals Brief
Appeal No. 25-046
807 44th Avenue
Hearing Date: January 14, 2026

being able to provide the caregiving for some amount of time, while also doing other work in the home over time.

Finally, the Appellant claims that the ceiling heights of the UDU make it eligible to be removed without a CUA. While there is a CUA waiver for UDUs that doesn't meet certain physical requirements, that issue was not part of the Appellant's request for a determination or the issued Letter of Determination. Regardless of the outcome of this appeal, that issue can be reviewed separately. Additionally, should the determination be upheld, the Appellant would continue to have the option to apply for a CUA to remove the UDU.

Conclusion

To conclude, there is adequate information and documentation in this case such that it is reasonable to determine that the UDU was in fact rented for consideration within the last 10 years, and therefore is not eligible for the Planning Code waiver from the otherwise required CUA to remove the UDU. Additionally, the determination relied heavily on the comments and decision by the Board of Appeals for Appeal No. 23-024. As such, the Zoning Administrator did not err or abuse their discretion in making this determination. Therefore, I respectfully request that the Board deny the appeal and uphold the determination.

cc: Ling La (Appellant)

Enclosures: Exhibit A – Appellant's Brief (without exhibits) for Appeal No. 23-024
Exhibit B – Appellant's Declaration for Appeal No. 23-024

Board of Appeals Brief
Appeal No. 25-046
807 44th Avenue
Hearing Date: January 14, 2026

EXHIBIT A

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6 Tel: (415) 896-1701
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9 Pamela Kong SBN 220912
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12 San Francisco, CA 94114
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15 Attorney for Appellant
16 SHUXIAN TAN

17 **SAN FRANCISCO BOARD OF APPEALS**

18 SHUXIAN TAN,

19 Appellant,

20 v.

21 CITY AND COUNTY OF SAN FRANCISCO,
22 SAN FRANCISCO DEPARTMENT OF
23 BUILDING INSPECTION,
24 Respondent,

25 LING LA,

Permit Holder.

Appeal No.: 23-024

APPELLANT'S BRIEF OPPOSING THE PERMIT

Subject Property: 807 44th Avenue
Alteration Permit No.: 2022/01/12/5846

Hearing Date: July 26, 2023
Time: 5:00 p.m.

Place: One Dr. Carlton B. Goodlett Place
Room: 416

INTRODUCTION

Shuxian Tan ("Tenant" or "Tan") appeals of the decision of the Planning Department to approve issuance of a permit to demolish the housing that she rented and has resided in for almost 16 years. (Department of Building Inspection's ("DBI") Alteration Permit No. 2022/01/12/5846 ("Permit")). Ms. Tan requests the Board of Appeal to revoke this permit because it was based upon the Planning

APPELLANT'S BRIEF OPPOSING THE PERMIT

Appeal No.: 23-024

1 Department's erroneous conclusions of law and fact which were in turn based upon false and misleading
2 information provided by the permit holder. Ms. Tan's housing unit, complete with a separate bedroom,
3 kitchen, and bath, first came to the attention of the Planning Department after DBI cited the owners for
4 the unlawful unit in December 2021. Exhibit 1 (12/17/21 Notice of Violation).

5 Under existing city policy, when DBI issues a Notice of Violation for an Unlawful Dwelling
6 Unit ("UDU"), the property owner must file a permit to legalize the unit unless either the owner applies
7 for and receives Conditional Use Authorization ("CUA") or the Zoning Administrator makes a written
8 finding that the unit is not able to be legalized. See San Francisco Building Code §102A.3.1 and
9 Planning Code § 317(c)(1).

10 Any application for a permit that would result in the Removal of one or more Residential
11 Units or Unauthorized Units is required to obtain Conditional Use authorization. For
12 Unauthorized Units, this Conditional Use authorization will not be required for Removal
if the Zoning Administrator has determined in writing that the unit cannot be legalized
under any applicable provision of this Code.

13 Planning Code §317.

14 The City enacted Section 317 in order to protect its affordable housing stock, including UDUs:

15 San Francisco faces a continuing shortage of affordable housing...The General Plan
16 recognizes that existing housing is the greatest stock of rental and financially accessible
residential units, and is a resource in need of protection.

17 Planning Code §317(a).

18 Planning Code section 317(b)(13) defines an "unauthorized dwelling unit" as:

19 ...one or more rooms within a building that has been used without the benefit of a
20 building permit as a separate and distinct living or sleeping space independent from
21 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
(2) there is no open, visual connection to a residential unit on the property.

22 As will be further discussed below, Tenant's home meets all the elements of a UDU. But as the facts
23 presented in this filing and the discussion below, Permit Holder successfully circumvented the
24 requirements of section 317(c)(1) and obtained the Permit by falsely denying Tan's tenancy and
25 obscuring other material facts. The Board of Appeal should revoke the Permit because the Permit

1 violates Planning Code section 317(c)(1) and require the owner to seek an application based upon the
2 complete and actual facts. If the permit is not set aside, a senior and long-time tenant will lose her home
3 and a needed housing unit will be lost without review by the Planning Commission in violation of City
4 policy.

5 PROCEDURAL HISTORY

6 On December 17, 2021, DBI issued a Notice of Violation (“NOV”) to Permit Holder for an
7 unlawful dwelling unit. Exhibit 1.

8 On January 11, 2022, Permit Holder submitted a “Project Application” to demolish the unlawful
9 dwelling unit. Permit Holder falsely claimed under penalty of perjury the units to be demolished were
10 “ownership units” when in fact they are rental units, one occupied by appellant and the other formerly
11 occupied by Tenant’s relatives. Exhibit 3, p.3. Significantly, Permit Holder cannot claim ignorance of
12 the tenancy because she knew that Tenant paid rent and lived downstairs for almost 16 years. Tenant
13 also sent Permit Holder a letter about her tenancy in October 2021, before Permit Holder filed the
14 Project Application. (Tan Decl., Exhibit 12)

15 On January 25, 2022, Permit Holder submitted the “Conditional Use Authorization Informational
16 Use and Supplemental Form” to the City and attested under penalty of perjury that “This is an owner-
17 occupied property and it’s not being used as a rental property so it will not affect the General Plan.”
18 Exhibit 5, p.3

19 On January 26, 2022 Permit Holder submitted the “Dwelling Unit Removal: Merger, Conversion
20 or Demolition Informational and Supplemental Application Packet” and asserted under penalty of
21 perjury that there were “0” rental units in the unit to be demolished. Exhibit 6, p.3). She further claimed
22 that “no” rental units were being converted to “other forms of tenure or occupancy” (Exhibit 6, p.6)

23 On January 29, 2022 Permit Holder submitted “Unauthorized Unit Screening Request Form and
24 Affidavit” (Determination issued 8/8/22) to the City and attested under penalty of perjury that the unit to
25 be demolished is “not an Unauthorized Dwelling Unit” Exhibit 7, p.3.

1 On May 12, 2023 DBI issued the Permit based on Rachna’s representation that the Subject
2 Property was not a UDU. Exhibit 2.

3 On May 30, 2023, Tenant filed her appeal of the Permit.

4 FACTS

5 Shuxian Tan has rented and resided at the subject property for almost sixteen years.

6 Shuxian Tan is a seventy-year-old tenant formerly employed as a caregiver by the family of Ling
7 La (“Permit Holder”). She immigrated to the United States from Canton, China and her primary
8 language is Cantonese. (Declaration of Shuxian Tan (“Tan Decl.”), pars.1 and 3).

9 In or around August 2007, Tenant entered into an oral rental agreement with permit Holder’s
10 father Cau La to rent a room in the lower floor of 807 44th Avenue for \$400 a month. (Tan Decl., Par.4)
11 Cau La lived upstairs with his wife. (Tan Decl., Par.4). Permit Holder failed to disclose to the Planning
12 Department and denied the existence of Ms. Tan’s tenancy.

13 Tenant and her family lived downstairs and had exclusive use of the downstairs facilities.

14 Tenant moved into her unit in August 2007. In or around 2009 Tenant’s sister Zhaoying Tan and
15 brother in-law Yaun Cheung He moved into the vacant room next to Tenant’s pursuant to a separate
16 rental agreement. (Tan Decl., Par.7) Tenant and her family did not share the downstairs kitchen, the
17 bathroom, or bedrooms with the owners or any other tenants. (Tan Decl., Par.8)

18 Tenant’s downstairs unit is independent of the upstairs unit and there is a door separating the lower unit
19 from the upstairs unit.

20 Tenant’s entrance to her home on the lower floor is through the side door next to the garage.
21 Tenant does not go through the upstairs to enter her unit. (Tan Decl., Par.12) Although there is a
22 stairway from the garage that leads to the upstairs, a door separates the two floors. Tenant never entered
23 the unit without the owners’ permission. (Tan Decl., Par.13)

24 Since August 2007, Tenant paid rent to Cau La to live in the subject property.

25 Tenant paid rent to Cau La from August 2007 until January 2022. She paid her rent up to a year
in advance until 2013. Cau La provided rent receipts to Tenant for these lump sums. (Tan Decl.,

1 Par.16). After 2013, Tenant paid rent in cash on a monthly basis to Cau La. (Tan Decl., Par.17) From
2 2013 to approximately 2021, Tenant occasionally asked Cau La for a rent reduction. Cau La refused,
3 saying, “if you don’t want to pay, you can move.” (Tan Decl., Par.20)

4 Tenant continued to pay rent for twenty months after her employment terminated.

5 In or around April 2020, in the beginning of the Pandemic, Cau La terminated Tenant’s
6 employment. (Tan Decl., Par.22) After her termination, Tenant continued paying her rent of \$400 in
7 cash each month to Cau La from May 2020 through December 2021.

8 In November 2021, Tenant photographed Cau La collecting her rent because she learned that
9 Permit Holder filed an unlawful detainer action against Tenant’s sister and brother-in-law, claiming that
10 they were not tenants and that they did not pay rent. (Tan Decl., Par. 23).

11 Shortly thereafter, the Department of Building Inspection issued the Notice of Violation to
12 Permit Holder in December 2021 finding that the lower unit was an unpermitted dwelling unit. Exhibit
13 1. In January 2022 Cau La refused to accept Tenant’s rental payment. Cau La told Tenant that Permit
14 Holder said that he could no longer accept rent from Tenant because Tenant’s unit was an illegal
15 dwelling. (Tan Decl., Par.26)

16 Permit Holder failed to provide Tenant with notice of the application for the demolition or of the permit
17 itself.

18 Permit Holder submitted her application for a demolition permit in January 2022. She did not
19 inform Tenant of the application at any time. In fact, Tenant learned that the owners planned to demolish
20 her home only in late April 2023, more than one year after Permit Holder filed the application. (Tan
21 Decl., Pars. 27 - 29) To date no notice of the demolition has been posted anywhere on the Property. (Tan
22 Decl., Pars. 27 and 31)

23 After learning that she would be displaced by the demolition, Tenant asked Permit Holder for the
24 notice about the demolition so that she could seek help. Permit Holder responded, “Tell them to look it
25 up.” (Tan Decl., Par.30)

1 The Planning Department Did Not Investigate Permit Holder’s Claim That There Were No Tenants on
2 the Property.

3 Conspicuously absent from the Planning Department’s records is any communication with
4 Tenant or her family. This appears to be due to Permit Holder’s representation that there had never been
5 renters and that the unit was not occupied.

6 I mentioned in my previous email that I don’t have and never have a rental/lease
7 agreement with anyone. We let the caregivers live there for free in addition to pay them
8 for the in-house services. The caregivers are no longer living in the room since 12/20/21.

9 Exhibit 8, p.1, January 24- 25, 2022 Emails between Ling La to Rachna Rachna

10 Indeed, Senior Planner Rachna believed that Tenant had been evicted:

11 Thanks so much for looking into this, Natalia! I really appreciate your help!
12 Shuxian Tan is the name of the caregiver and was registered to vote at this address in 2018.
13 Here are two court documents related to the care giver’s eviction. No separate utility bills.

14 Exhibit 9, July 8, 2022 Email from Rachna to Natalia Kwiatkowska

15 Notably, by time of this email, the Planning Department had obtained records from the
16 Rent Board regarding the eviction history of 807 44th Avenue. San Francisco requires landlords
17 to file a copy of eviction notices with the Rent Board. The Rent Board documented that Permit
18 Holder had filed an eviction action on October 5, 2021 against Tenant’s sister and brother-in-
19 law, who were identified as “Tenants”. Permit Holder is identified as “Landlord” and the cause
20 for eviction is “Breach of Lease Agreement”. Exhibit 10, January 11, 2022 Rent Board Response
21 to Planning Department, p.2.

22 Although Tenant’s name is not on the eviction record (she was not named in the Unlawful
23 Detainer action), Rachna concluded that Tenant no longer resided on the premises. A review of the
24 email history between Rachna and Permit Holder explains Rachna’s erroneous conclusion. When
25 Rachna asked Permit Holder to identify “Shuxian Tan (Tenant)” Permit Holder responded, “Tan,
Shuxian – She occupied the lower level space, she was the IHSS caregiver till 2020...**None of these
people is owner or renter. (emphasis added).** Exhibit 11, June 16, 2022 Email from Ling La to
Rachna.

1 Permit Holder misled Rachna that Tenant no longer resided at the unit. To wit, Rachna was
2 unaware of Tenant’s tenancy. Apparently in response to Rachna’s inquiry about Tenant after the filing
3 of this appeal, Permit Holder stated, “Please review the email below that I did tell you who Tan, Shuxian
4 is.” Exhibit 12, June 6, 2023 Email Ling La to Rachna. The email to which she refers is Exhibit 11
5 wherein she tells Rachna that Tan “occupied” the unit (past tense) and was not a renter.

6 The Planning Department’s record is clear that its decision to approve the Permit was based on
7 information gleaned solely from Rachna’s communications with Permit Holder. Indeed, no one
8 contacted Tenant about her tenancy. (Tan Decl., Par.27) Consequently, by providing false information
9 Permit Holder successfully circumvented Planning Code section 317(c)(1)’s requirement of a
10 Conditional Use Authorization prior to removal of any unauthorized unit. Thus, the City never had the
11 opportunity to evaluate whether the demolition would preserve and enhance the City’s supply of
12 affordable housing, one of the articulated priorities in the City’s General Plan. See Planning Code §
13 101.1.

14 ARGUMENT

15 **A. De Novo Review**

16 The Board of Appeals reviews the decisions of the Department of Building Inspection and the
17 Planning Department *de novo*.

18 **B. The Board Should Revoke the Permit Because the Subject Property is a UDU**
19 **Pursuant to Planning Code section 317(b)(13) and Permit Holder failed to obtain CUA**
20 **or the Zoning Administrator’s determination that the unit cannot be legalized.**

21 As explained above, Planning Code section 317(c)(1) prohibits the removal of unauthorized
22 dwelling units (“UDU”) without first obtaining conditional use authorization or a determination by the
23 Zoning Administrator that the unit cannot be legalized. Here, DBI should have followed 317(c)(1)
24 because Tenant’s home is a UDU.

25 1. Tenant’s Home is an UDU.

Planning code section 317 (b)(13) defines an unauthorized unit as:

1 ...one or more rooms within a building that has been used without the benefit of a
2 building permit as a separate and distinct living or sleeping space independent from
3 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
(2) there is no open, visual connection to a residential unit on the property.

4 Tenants’ home meets the elements of a UDU as follows:

5 a. Tenant’s home was an unpermitted unit.

6 DBI issued the December 17, 2021 NOV to Permit Holder for an unlawful unit. Permit Holder
7 admits throughout her permit applications that her intent is to “demolish non-complying/unpermitted
8 spaces in garage: 2 rooms, 1 bathroom and fixtures.” (Exhibit 3, p.3)

9 b. The lower level where Tenant lives is a separate and distinct living and
10 sleeping space.

11 Tenant and at one point, her family, lived and slept in the lower level of the building. The DBI
12 identified their unit is an in-law unit. Exhibit 1. Permit Holder admits that “there were two rooms in the
13 basement where all of our family members used to live” [sic] I used to live in the room downstairs...”
14 Exhibit 4. The downstairs where Tenant resides isn’t used for any purpose other than a dwelling. Tenant
15 and her family did not share the downstairs facilities with the owners or tenants in the upstairs. They had
16 exclusive use of the kitchen and bathroom and their rooms.

17 Most significantly, the unit is a *bona fide* rental unit. Tenant resides at the Property pursuant to
18 an oral rental agreement that commenced almost 16 years ago. There are rent receipts that evidence a
19 landlord-tenant relationship and show that her rent was \$400 per month. Tenant sought and the landlord
20 denied her a rent reduction on more than one occasion. Significantly, Tenant paid rent for 20 months
21 after her employment terminated. There are photos of Cau La collecting her rent of \$400 in November
22 2021, 19 months after her employment ended. (Tan Decl., par. 23) This fact alone puts to rest any
23 uncertainty that the Subject Property is a separate and distinct living and sleeping space. Tenant’s home
24 simply was not tied to her employment.
25

1 c. Tenant's home is "independent" because she accesses her home
2 independent of the upstairs unit and there is no open, visual connection
3 between the upstairs and downstairs.

4 Tenant enters her unit through the side door next to the garage door. She does not need to go
5 through the upper unit to reach her home. There is an internal stairway that leads from the upstairs unit
6 through the garage and into the backyard, both common areas. However, there is a door with a latch at
7 the top of the stairs that prevents Tenant from directly seeing into and entering into the upstairs.
8 Moreover, Tenant was not free to enter the upstairs as she pleased. She only ever went upstairs with the
9 La family's permission.

10 2. The Planning Department erroneously determined that the Subject Property is not
11 a UDU.

12 On August 8, 2022, Rachna completed the Planning Department's evaluation of whether the
13 Subject Property is a UDU. She determined that it was not. Exhibit 7, p.4 sets forth the Planning
14 Department's step-by-step inquiry into whether or not Tenant's home is a UDU. First, the Planning
15 Department correctly determined that Tenant's home meets the criteria for Physical Independence as
16 described in Planning Code section 317(b)(13). Exhibit 7, p.4 ("Yes" Response to Question 1, "Does the
17 space meet the criteria for Physical Independence as described in Planning Code section 317(b)(13)).

18 However, the Planning Department incorrectly determined that the Subject Property had not
19 been used as a separate and distinct living space. Exhibit 7, p.4 ("No" Response to Question 2, "Has the
20 space been used as a separate and distinct living space?")

21 Question 2 has five subparts, at least three of which the Planning Department answered
22 incorrectly based on Permit Holder's misinformation and the Planning Department's failure to inspect
23 the living space, which would have clearly established Tan's tenancy. Had the Planning correctly
24 answered them, the Planning Department should have concluded that Tenant's home is a UDU.

25 First, in response to the question of whether the rent board provided records for the Subject
Property, the Planning Department said, "No." Exhibit 7, p.4. But the Rent Board provided an eviction

1 record on January 11, 2022. Exhibit 10. The Record identified a landlord/tenant relationship between
2 Permit Holder and Tenant’s sister and brother-in-law.

3 Second, the follow-up question asks whether the Rent Board Record provides evidence of a
4 UDU. The Planning Department mistakenly indicated, “No.” The correct answer is yes, because a
5 tenancy indicates a separate and distinct use of a living space.

6 Thirdly, the final inquiry asks whether there is any other documentation that indicates the space
7 has been occupied. The Planning Department mistakenly responded “No.” The correct answer is “Yes.”
8 There are other documents that show that the space has been occupied. Permit Holder’s own emails to
9 Rachna confirmed that the space had been occupied. Exhibit 4 (Permit Holder’s family members
10 occupied the downstairs, Exhibit 11 (Tenant occupied the downstairs.). Photos submitted with plans for
11 the demolition include a bathroom showing signs of occupancy, e.g., shampoo bottle and towel, kitchen
12 area with food items such as rice cooker, saran wrap, peanut butter, etc. (Tan Decl., Par. 11, Exhibit 4).

13 Exhibit 4 is important for two reasons. First, the photos are incomplete. Rachna specifically
14 asked Permit Holder to provide plans and photos of the downstairs. Exhibit 4, p.3. The floor plan on
15 page three clearly shows two bedrooms, yet there are no photos of these bedrooms to be converted to an
16 office and storage room. Second, the photos show signs of occupancy. Permit Holder indicated that her
17 father lived upstairs (Exhibit 11), so the signs of occupancy downstairs should have at least triggered
18 further inquiry.

19 Yet, the only narrative before the Planning Department was Permit Holder’s. In response to the
20 question “Does the Unauthorized Unit Affidavit indicate that the project would remove a UDU?” The
21 Planning Department responded, “No,” because Permit Holder affirmed under penalty of perjury that
22 there isn’t a UDU on the subject property. The Planning Department would have found the Subject
23 Property to be a UDU had it not relied solely on Permit Holder’s deliberate misrepresentations.

24 Permit Holder willfully withheld the truth of Tan’s Tenancy. She knew that Tenant paid rent to
25 Cau La. She told Cau La that he could no longer accept rent from Tenant in January 2022. This

1 instruction coincides with the timing of Permit Holder’s application for a demolition permit. Permit
2 Holder had numerous opportunities to declare Tan’s tenancy during the permitting process. Instead, she
3 repeatedly represented to the Planning Department that Tenant and her family members were caregiver
4 licensees and did not pay rent. Permit Holder’s deliberate misstatements achieved the desired result – the
5 granting of the Permit now at issue.

6 The Board must revoke the Permit because it was issued in violation of the Section 317’s
7 demolition controls.

8 **CONCLUSION**

9 Tenant is precisely the type of San Francisco resident who needs the protection of Section 317.
10 She is immigrant and elderly and has virtually no income. Her daughter doesn’t live in the country. She
11 relies solely upon herself. Permit Holder’s deliberate misstatements about the tenancy deprived Tenant
12 of the opportunity to be heard at a Conditional Use Authorization Hearing. The Planning Department
13 never reached the issue of whether her unit could be legalized. Furthermore, the erroneous determination
14 that the unit was not a UDU has dire consequences - It deprives Tenant of all rights under the Just Cause
15 Eviction Ordinance, including but not limited to relocation fees.

16 The La family exploited Shuxian Tan and grossly underpaid her when they employed her. Now
17 they seek to strip her of all her rights as a tenant by misstating the facts of her tenancy and
18 circumventing the requirements of section 317. Tenant is entitled to all the protections of section 317.
19 She should not be forced out of her home without the City having considered whether the demolition
20 conflicts with the General Plan. Tenant pays \$400 per month for her rent. In August she will have been
21 in her home for 16 years. This affordable unit will be permanently lost if it is removed. This affordable
22 UDU is exactly the existing housing stock that the City wants to protect. Permit Holder must not be
23 allowed to remove it before she has obtained CUA or the Zoning Administrator’s determination that it
24 cannot be legalized. Accordingly, the Board of Appeal should revoke the Department of Building
25 Inspection’s Alteration Permit No. 2022/01/12/5846.

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Dated: July 6, 2023

LAW OFFICE OF PAMELA KONG

By: Pamela Kong
Pamela Kong, Esq.
Attorney for Appellant SHUXIAN TAN

Board of Appeals Brief
Appeal No. 25-046
807 44th Avenue
Hearing Date: January 14, 2026

EXHIBIT B

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15 Attorney for Appellant
16 SHUXIAN TAN

17 **SAN FRANCISCO BOARD OF APPEALS**

18 SHUXIAN TAN,

19 Appellant,

20 v.

21 CITY AND COUNTY OF SAN FRANCISCO,
22 SAN FRANCISCO DEPARTMENT OF
23 BUILDING INSPECTION,
24 Respondent,

25 LING LA,

Permit Holder.

Defendants.

Appeal No.: 23-024

**DECLARATION OF SHUXIANG TAN IN
SUPPORT OF APPEAL OPPOSING THE
PERMIT**

Subject Property: 807 44th Avenue
Alteration Permit No.: 2022/01/12/5846

Hearing Date: July 26, 2023

Time: 5:00 p.m.

Place: One Dr. Carlton B. Goodlett Place
Room: 416

DECLARATION OF SHUXIANG TAN

1. My name is Shuxian Tan. I am 70 years old. I was born in China and my primary language is Cantonese.

DECLARATION OF SHUXIAN TAN ISO APPEAL OPPOSING THE PERMIT

Appeal No.: 23-024

1 2. I live at the lower unit of 807 44th Avenue, San Francisco where I have been a tenant
2 since August 2007. Attached hereto as Exhibit 1 is a true and correct copy of my home behind the
3 parking area in the lower unit.

4 3. In 2007 I applied for a home care position with Cau La and his wife Huu Dang, the
5 parents of Ling La and Amanda La. I was employed by the family and my wages were funded through
6 the state's In-Home Support Service Program ("IHSS"). Beginning in 2008, I was scheduled to work
7 from 8am to 8pm and was paid \$60 per day. Cau La cared for his wife at night.

8 4. Months after I was hired, I entered into a separate oral rental agreement with Cau La to
9 rent a room in the lower floor of 807 44th Avenue for \$400 a month. Cau La and Huu Dang lived
10 upstairs. Housing was never a part of my compensation. Living on the premises was not a job
11 requirement.

12 5. Cau La represented to me that he owned the house.

13 6. I moved into the lower unit with my daughter who was 20 years-old at the time. When we
14 first moved in, we had no stove, only a hot plate and refrigerator in the lower unit. We have always had
15 our own bathroom on the lower floor. Attached hereto as Exhibit 2 is a true and correct copy of a
16 photograph of the bathroom.

17 7. At the beginning of my tenancy there another room on the lower floor that was vacant. In
18 or around 2009 Cau La convinced my sister Zhaoying Tan and my brother in-law Yaun Cheung He to
19 move into the vacant room. Cau La installed a kitchen counter, cabinets, and stove in the kitchen area in
20 or around late 2009 or early 2010 before they moved in. My sister and brother-in-law also paid monthly
21 rent to Cau La.

22 8. My family had exclusive use of and did not share the downstairs kitchen or the bathroom
23 with the owners or any other tenants.
24
25

1 9. When Huu Dang was still alive, I cooked the owners' meals upstairs and would eat with
2 them when I was working. I cooked dinner for Cau La after Huu Dang passed away, I cooked dinner for
3 Cau La and ate with him while I was working, but I cooked breakfast and all other meals in my own unit
4 for myself and for my family. Exhibit 3 is a true and correct copy of a photograph of my family in the
5 kitchen in happier days. You can see the stove in the downstairs kitchen.

6 10. The owners-took the stove away in 2021 when they started trying to evict my sister and
7 brother-in-law. Since then, I have cooked with my rice cooker and microwave.

8 11. My bedroom faces the garden. My name is written on page 3 of Exhibit 4 to show where
9 my bedroom is located.

10 12. I access my unit through the side door next to the garage. I do not enter my home
11 through the upstairs unit. Attached hereto as Exhibit 5 is a true and correct copy of a photograph of the
12 door to the right of the garage door that I use to enter my home from the street.

13 13. There is a stairway that leads to the upstairs but there is a door that prevents direct access
14 into the upper unit. I have only ever gone upstairs for work or at the La family's behest.

15 14. The door to my room has a lock and remains locked when I'm not at home. Attached
16 hereto as Exhibits 6, 6a and 6b are true and correct copies of photographs of the door to my bedroom, a
17 view of the inside of my bedroom from the doorway, and my grandson visiting me in my room,
18 respectively.

19 15. Until she moved out eight years ago, my daughter and I shared this room.

20 16. My rent was \$400 per month. I paid rent to Cau La from August 2007 until January 2022.
21 I used to pay my rent up to a year in advance. Attached hereto as Exhibits 7 and 8 are true and correct
22 copies of my rent receipts from Cau La with his signature.
23
24
25

1 17. After 2013, I started paying my \$400 rent in cash each month and Cau La stopped giving
2 me rent receipts. I started paying my rent monthly because my wages decreased significantly after Huu
3 Dang passed away.

4 18. I have never shared or lived in the upstairs unit. I could not rest, sleep or be with my
5 family upstairs. Upstairs is where I worked as the owners' maid, cook, caregiver, and servant.

6 19. After Huu Dang passed away in 2013, I kept house for Cau La, including daily cleaning
7 of the house. I cleaned the bathroom and mopped the kitchen floors. I accompanied him on errands or
8 appointments. I did laundry and yardwork. I cooked Cau La's dinner. After Huu Dang passed away, Cau
9 La paid me \$20 per day for all my work.

10 20. From 2013 to approximately 2021, I occasionally asked Cau La if he could reduce my
11 rent. Cau La responded, "if you don't want to pay, you can move."

12 21. Beginning in or around 2017, at Cau La's request, I started cooking dinner for Cau La,
13 the two occupants in the upstairs unit, and Cau La's female friend every day. As part of my job, I ate
14 dinner with them and cleaned up after everyone.

15 22. During the Pandemic, in or around April 2020, Cau La suggested that I split my hours
16 with his female friend. I could not agree to this. Cau La told me, "If you don't agree, then don't work."
17 This is how he terminated my employment.

18 23. From May 2020 to December 2021, I continued to pay my rent to Cau La for another
19 twenty months after my employment terminated. Attached hereto as Exhibits 9, 10, and 11 are true and
20 correct copies of photographs that I took of Cau La accepting my rent of \$400 from me in cash for the
21 month of November 2021, after I had stopped working for him. I took photographs of Cau La accepting
22 rent because I learned that the Permit Holder filed an unlawful detainer claiming that my sister and
23 brother-in-law were not tenants.
24
25

1 24. In October 2021, I hand delivered and mailed a letter to Cau La and Ling La about my
2 tenancy after they filed an unlawful detainer action against my sister and brother-in-law. In this letter, I
3 confirm my discussion with Cau and Ling La that my tenancy would not be affected by the eviction
4 lawsuit. I also confirm that the owners accepted rent from me that month. Attached hereto as Exhibit 12
5 is a true and correct copy of said letter.

6 25. After my employment terminated, I applied for unemployment benefits at Cau La's
7 suggestion. He said that he would support my application. Until he suggested it, I did not know that I
8 could apply for unemployment benefits.

9 26. In January 2022, Cau La refused to accept my rent. He told me that Ling La said that he
10 could no longer accept rent from me.

11 27. I did not know that the owners planned to demolish the unit until the end of April 2023. I
12 received no notice about the application. No one from the City contacted me to ask about my tenancy.

13 28. In or around the end of April 2023, Ling La called me on the phone and told me that I
14 had to move out because my unit would be demolished.

15 29. Also at the end of April 2023, Ling La met me in person and said, "It's not that I want to
16 force you to leave, but your sister sued me and said that I violated the law. People can't live here. The
17 City says the unit needs to be demolished. No one can stay." I asked if I could move upstairs. Ling La
18 said, "You can sleep in the living room for a few days." I told her, "I have nowhere to go." Ling La
19 asked, "Can you find a place to live? There's nothing we can do. The City says that we must do the
20 demolition by August. I was very frightened that I would become homeless.

21 30. When I asked Ling La for copies of the permit notice so that I could show them to
22 lawyers to help me with my situation. Ling responded, "Tell them to look it up."
23
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Exhibit 1



Exhibit 2



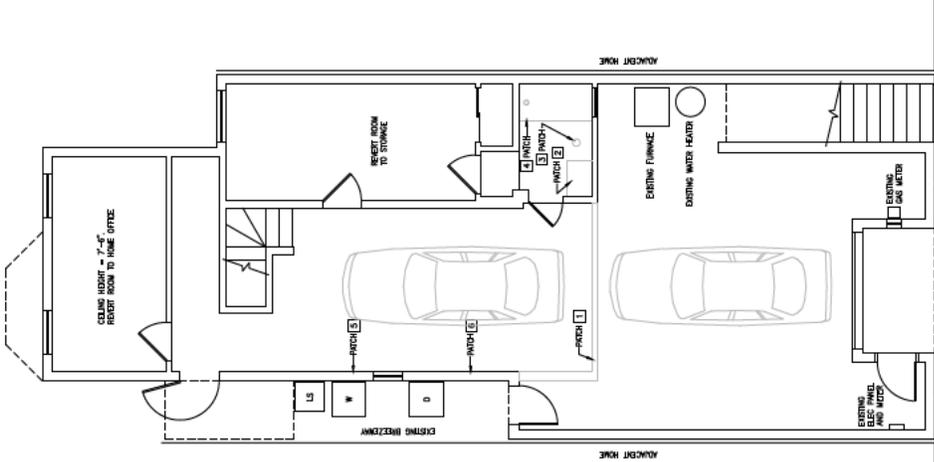
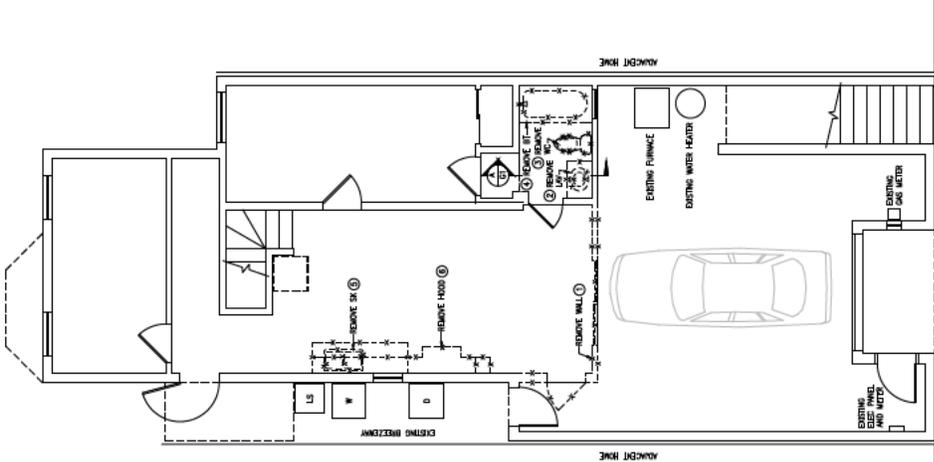
Exhibit 3



Exhibit 4

- DEMOLITION NOTES**
- REMOVE NON-STRUCTURAL PARTITION WALL BEHIND GLASS DOOR AND WOOD DOOR. REMOVE GLASS DOOR AND WOOD DOOR. REMOVE GLASS DOOR AND WOOD DOOR.
 - REMOVE EXISTING WATER CLOSET. REMOVE EXISTING WATER CLOSET.
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- FINISH NOTES**
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44th Ave

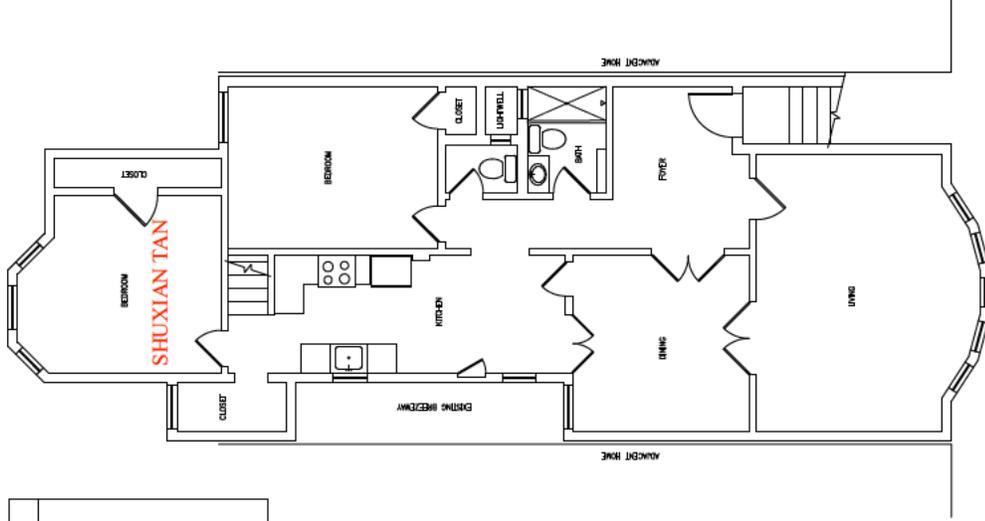
1 BASEMENT DEMOLITION PLAN
1/8"=1'-0"

44th Ave

2 BASEMENT FINISH PLAN
1/8"=1'-0"

NOTES

- 1 EXISTING MAIN FLOOR TO BE SHOWN AS IS. SHOWN FOR REFERENCE ONLY.



807 44th Ave
SAN FRANCISCO

Name: CHARLOCK Date: 01/14/2022
Checked: PERUMMETIL 01/14/2022

Scale: 1/8"=1'-0" Date: 01/14/2022
Sheet: 14-110

EXISTING MAIN FLOOR PLAN

1 EXISTING MAIN FLOOR PLAN
14-110

G3

Exhibit 5



807

Exhibit 6



Exhibit 6a



Exhibit 6b



Exhibit 7

No. _____ Date 04.01.08 - 31.11.08

RECEIVED OF Shu xian Tan

For rent 8 month - DOLLARS \$ 3,200⁰⁰

Amt. of Account		
Amt. Paid		
Balance Due		

BY [Signature] 04/01/08

No. _____ Date 12.01.08

RECEIVED OF \$ ~~5,000.00~~ pay rent 12 months

From 12.01.08 - 12.01.09 DOLLARS \$ 5,000

Amt. of Account		
Amt. Paid		
Balance Due		

BY [Signature]

No. 0168 - Date 12.01.09

RECEIVED OF rent for 12 months

From 12.01.09 to 12.01.10 DOLLARS \$ 4,600⁰⁰

Amt. of Account		
Amt. Paid		
Balance Due		

BY [Signature]

Exhibit 8

No. _____ Date 10-23-12

RECEIVED OF 12 month for rent
at 807 44TH AVE SF CA 94124 DOLLARS \$ 2,000⁰⁰
(Two thousand only)

Amt. of Account		
Amt. Paid		
Balance Due		

BY [Signature]

No. _____ Date 01-01-12

RECEIVED OF pay 12 month rent
From 01-01-12 to 01-01-13 DOLLARS \$ 3,600⁰⁰

Amt. of Account		
Amt. Paid		
Balance Due		

BY [Signature]

No. 0169 Date 07-12-10

RECEIVED OF rent for 13 months
From 12-01-10 to 01-01-12 DOLLARS \$ 5000⁰⁰

Amt. of Account		
Amt. Paid		
Balance Due		

BY [Signature]

Exhibit 9



Exhibit 10

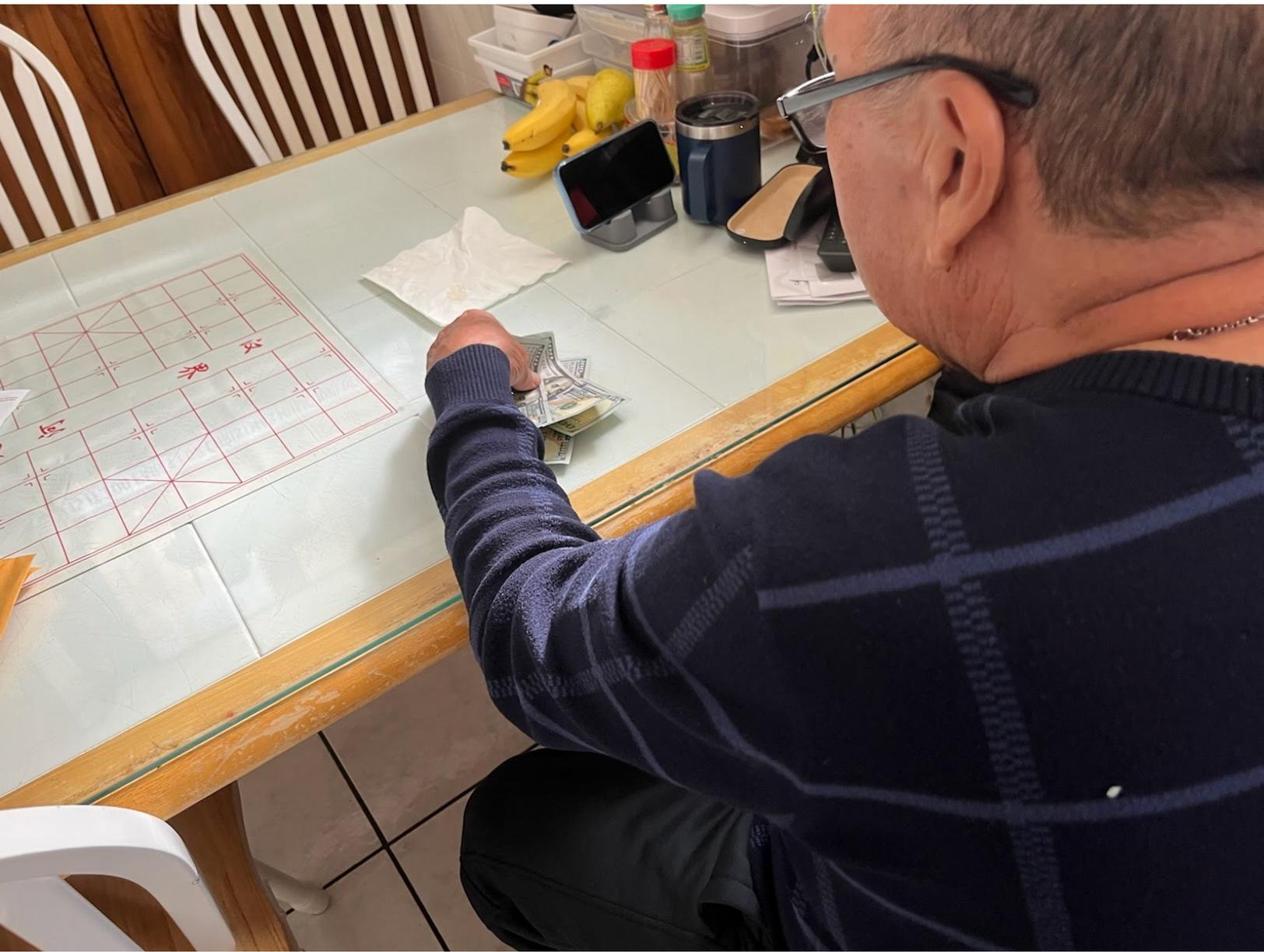


Exhibit 11



Exhibit 12

October 19, 2021
2021 年 10 月 19 日

Via USPS & Hand delivery
通過 USPS 以及本人親手遞送

Cau La
Ling La
807 44th Avenue
San Francisco, CA 94121

Re: CUD-21-668208; Eviction case against Yuanchang He and Zhaoying Tan
相關事宜: CUD-21-668208; 針對 Yuanchang He 以及 Zhaoying Tan 的驅逐案

Dear Cau La and Ling La,
致 Cau La 和 Ling La

I am writing regarding my tenancy in the downstairs unit at 807 44th Avenue, San Francisco, CA 94121 and our recent communications about the above-referenced eviction lawsuit that you have filed against my sister and her family.

寫這封信的起因是我在舊金山 44 大道 807 號樓下單位的租賃關係，該單位的郵區編碼為 CA94121，希望在此複述我們之間的溝通，關於你們起訴我妹妹和她家人的驅逐訴訟一事。

Eviction lawsuit **驅逐訴訟**

I received two pages of a form titled “Pre-Judgment Claim” from your granddaughter/daughter sometime around October 8, 2021. I did not understand what the form was for. I later found out that these papers are part of an eviction lawsuit. I am not named as a Defendant in this lawsuit. I did not receive the eviction notice and the other court papers in this lawsuit. I am a tenant occupying one of the separate rooms in the unit described as “807, 44th Ave, Bottom Floor” in the lawsuit. I have a separate lease with you. My monthly rent is \$400.

我在 2021 年 10 月 8 日左右收到了你的孫女（或女兒）給我的一份文件，共兩頁的標題為「預判申訴」的表格。我一開始並不明白這份表格是用作何處。我稍後發現這些文件是一宗驅逐訴訟的法庭文書。我並未在此訴訟中被點名為被告。我並未收到驅逐通知書亦未收到此案中的任何其它法庭文書。我是住在位於訴訟中提到的 44 大道 807 號樓下這個單位內其中一個房間的租客。我和你們有另外的租約。我的月租金為 400 美元。

When I contacted you about this lawsuit, you confirmed that this is not an attempt to evict me and that you were not suing me. You told me that my tenancy will not be impacted by this lawsuit. You have also accepted rent from me for the month of October 2021. Because of your actions and statement, and believing these to be true, I am not taking any steps to respond to this eviction lawsuit.

當我因此訴訟而跟你進行溝通時，你跟我確認你並不是要驅逐我、你亦並未起訴我。你告訴我，我在此單位的租賃關係並未因此訴訟而受影響。你亦接受了我繳交的 2021 年十月租金。因為我相信你上述的說辭和行徑皆出於真誠，我因而並未應訴。

Rent payment
繳納租金

Through this lawsuit, I also learned that Ling La is the current owner of the downstairs unit. However, based on the terms of my verbal lease since the beginning of my tenancy, I have paid rent in cash directly to Cau La. I did not receive notice of any change in ownership during my tenancy. Please let me know if there are any changes in how I pay my rent and provide me with a rent receipt going forward.

通過這個訴訟案，我得知 Ling La 才是現在樓下單位的物業持有人。但是基於我剛搬進來時與你們進行口頭上的租賃條款的磋商，我一直都是直接向 Cau La 以現金形式繳交租金。若有任何關於交租方式的變更，請告知我，亦請在未來收租後給我提供租金收據。

Please contact me at (415) 710 0966 if you have any questions or concerns.
若你對此信有任何問題或疑慮，請致電 415-710-0966 與我取得聯繫。

Sincerely,
僅此致意，

Shu Xian Tan
Tenant at 807 44th Ave (downstairs unit)
住在 44 大道 807 號樓下單位的租客

cc. Kriss Miranda (Property Agent), 501 Gonzalez Drive, San Francisco, CA 94132
另寄送 Kriss Meranda (物業經理)，地址為 501 Gonzalez Drive, San Francisco, CA 94132