

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
1449 POWELL STREET LLC, _____)
Appellant(s))
vs.)
ZONING ADMINISTRATOR, _____)
Respondent

Appeal No. **24-026**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on March 25, 2024, 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 March 8, 2024, of a Notice of Violation (the record for the property’s authorized use is inconsistent; the subject property is currently authorized for eight family dwelling units and commercial uses according to the Report of Residential Building Record (3R Report); the Assessor’s Record lists the authorized use as 35 units; according to the Department of Building Inspection (DBI), the subject property is listed as a private, for-profit residential hotel under Chapter 41 of the San Francisco Administrative Code and contains 17 residential guestrooms per the Certificate of Use (14 occupied and 3 vacant as of October 15, 2020); further, its Chapter 41 Annual Usage Report, dated February 25, 2021, lists the property as having an incomplete Annual Unit Usage Report (AUUR)) at the subject property 1449 Powell Street.

COMPLAINT NO. 2023-000920ENF

FOR HEARING ON June 12, 2024

Address of Appellant(s):

Address of Other Parties:

1449 Powell Street LLC, Appellant(s) c/o Henry Karnilowicz, Agent for Appellant OCCIDENTAL EXPRESS Consulting Design Construction Management 1019 Howard Street San Francisco, CA 94103	N/A
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Date Filed: March 25, 2024

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

PRELIMINARY STATEMENT FOR APPEAL NO. 24-026

I / We, **1449 Powell Street LLC**, hereby appeal the following departmental action: **ISSUANCE** of a **Notice of Violation (Complaint Number: 2023-000920ENF)** by the **Zoning Administrator** which was issued or became effective on: **March 8, 2024**, for the property located at: **1449 Powell Street**.

BRIEFING SCHEDULE:

Appellant's Brief is due on or before: 4:30 p.m. on **May 9, 2024, (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.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org, and matthew.greene@sfgov.org

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **May 23, 2024, (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.rosenberg@sfgov.org, corey.teague@sfgov.org, tina.tam@sfgov.org and occxp@aol.com

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

Hearing Date: **Wednesday, May 29, 2024, 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

Signature: Via Email

Print Name: Henry Karnilowicz, agent for appellant

The appeal is that I believe housing has never deemed the rooms on the first floor as illegal.

At a task force inspection planning issued the referenced NOV stating that residential units are not permitted on the first floor. The planner said to reconfigure the upper floors to relocate the rooms from the first floor.

This is an SRO where it would not be feasible to do so furthermore the rooms on the first floor are existing not conforming for at least ten years and thus we are requesting the revocation of the NOV from planning.

Henry Karnilowicz



NOTICE OF VIOLATION

March 8, 2024

Property Owner

1449 Powell Street LLC
294 29th Street
San Francisco, CA 94131

Site Address: 1449 Powell Street
Assessor’s Block/Lot: 0148/031
Zoning District: NCD, North Beach Neighborhood Commercial
Complaint Number: 2023-000920ENF
Code Violation: Section 175: Unauthorized Alterations
Administrative Penalty: Up to \$1,000 per Day for Each Violation
Enforcement T & M Fee: \$9,062.96 (Current Fee for confirmed violations, Additional charges may apply)
Response Due: Within 15 days from the date of this Notice
Staff Contact: Heather Samuels, (628) 652-7545, heather.samuels@sfgov.org

The Planning Department finds the above referenced property to be in violation of the Planning Code. As the owner of the subject property, you are a responsible-party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

Description of Violation

The record for the property’s authorized use is inconsistent. The subject property is currently authorized for eight family dwelling units and commercial uses according to the Report of Residential Building Record (3R Report). The Assessor’s Record lists the authorized use as 35 units. According to the Department of Building Inspection (DBI), the subject property is listed as a private/for profit residential hotel under Chapter 41 of the San Francisco Administrative Code and contains 17 residential guestrooms per the Certificate of Use (14 occupied and 3 vacant as of October 15, 2020). Further, its Chapter 41 Annual Usage Report dated February 25, 2021, lists the property as having an incomplete Annual Unit Usage Report (AUUR).

Below is a table outlining the assumed legal existing condition with completed Building Permit Application (BPA) and the as-built condition on each floor level:

Floor Level	Legal or “Existing” Condition	Chapter 41 Annual Usage Report	As-built Condition
Basement	BPA No. 2001.0615.1685 with scope of work to remove all fixtures and revert to storage		Two separate toilets and a bathtub

First Floor	BPA No. 2007.0802.8611 with scope of work for Interior remodel of 2 storefront[s] both vacant into medical office replace store front windows and doors		One occupied commercial (medical office) use One unoccupied storage use 1 UDU - dwelling unit 3 residential rooms
Second Floor	Undetermined	7 guestrooms	4 dwelling units and 9 guestrooms
Third Floor	Undetermined	10 guestrooms	4 dwelling units and 10 guestrooms
Total	Potentially 8 dwelling units and 17 guestrooms	17 guestrooms	9 dwelling units and 22 guestrooms

The following table lists the relative BPAs, including the scope of work, use category, and permit status:

Permit	Scope of work	Listed use	Status
2001.0615.1685	Renew app#20000107503 remove illegal Gal unit, kitchen, fixtures, sinks. Remove illegal units in basement and revert basement back to original use as storage as per plan. Remove kitchen fixtures, sinks, cabinets, stove, frig in basement as per 6.4.81 (HID Report)	8 apartments (apt), 17 guestrooms (GRS)	CFC (no plans)
2001.1022.1397	Fully sprinkler for existing system	8 apt, 17 GRS	Expired (plans)
2007.0802.8611	Interior remodel of 2 storefront both vacant into medical office replace store front windows and doors	8 apt, 17 GRS	Complete (plans)
2017.1113.3835	Soft story program seismic retrofit	8 dwelling and 17 residential hotel & apartments	CFC (plans)

The subject property is located within the North Beach Neighborhood Commercial Zoning District. Pursuant to Planning Code Section 722, Single Room Occupancy uses are permitted on the second floor and above. Per Section 102, Single Room Occupancy is defined as:

“A Residential Use characteristic, defined as a Dwelling Unit or Group Housing room consisting of **no more than one occupied room with a maximum gross floor area of 350 square feet** and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room. As a Dwelling Unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains only SRO units and accessory living space.”

Pursuant to Planning Code Section 722, Residential Uses are Not Permitted (NP) on the first floor at the subject property. Active Commercial uses shall be required at the Ground Floor pursuant to Section [145.4](#) to promote active, pedestrian-oriented streetscape.

Pursuant to Planning Code Section 102, a Dwelling Unit is defined as:

Residential Use defined as a room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a Dwelling Unit for purposes of this Code. For the purposes of this Code, a Live/Work Unit, as defined in this Section, shall not be considered a Dwelling Unit.”

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

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

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

Timeline of Investigation

On February 14, 2023, a Task Force Inspection was conducted at the subject property where unauthorized alterations were confirmed. During the site visit, the Planning Department confirmed that the first floor consisted of two commercial spaces, including a medical office use at the front of the property and a storage/office use at the rear. There is also an Unauthorized Dwelling Unit (UDU) with a full bathroom, three unauthorized guestrooms, and an unauthorized shared central kitchen with stove on the first floor. The first floor’s interior configuration of the medical office use at the front of the property appeared to have been altered without a building permit or Planning Department review. The commercial space at the rear appeared to be used for the storage of mattresses and various supplies.

On February 27, 2023, the Planning Department sent you a Notice of Complaint. In that notice, you were advised to contact the Planning Department to resolve the complaint.

On May 3, 2023, the Planning Department sent you a Notice of Enforcement informing you about the violation and the abatement process. In that notice, you were advised to take corrective action and provide evidence of compliance to the Planning Department within fifteen (15) days.

On April 23, 2023, BPA No. **202304276651** was filed to “TO COMPY W/NOV #202303583, BUILD 2 WALLS TO CREATE TWO SEPARATE ROOMS FROM THE EXTG MEETING ROOM, RECONFIGURE SPACE AND COUNTER TOPS TO INCLUDE AN OFFICE & FILE STORAGE. NOT RESIDENTIAL GUESTROOMS, WILL NOT REMOVE DOOR CONVERTER.”

On May 24, 2023, your representative and Project Sponsor, Henry Karnilowicz met with Planner, Chaska Berger at the Permit Center to discuss BPA No. 202304276651. Chaska explained that the permit drawings should include the accurate full lot area, entire first floor, and floors above. Additionally, Chaska relayed to Henry that any scopes of work not included in this permit should be noted as to be reviewed under a separate permit.

On June 1, 2023, Chaska Berger emailed Henry Karnilowicz to inform him that if the required building permits are not submitted by June 15, 2023, Planning would proceed with issuing the Notice of Violation (NOV). On that same day, Henry Karnilowicz responded stating that he had ordered the drawings from DBI's Records Management the prior week and a design professional was actively working on the requested permit drawings. Chaska Berger reiterated the deadline to comply was June 15, 2023.

On June 13, 2023, Henry Karnilowicz sent an email to Chaska Berger requesting a 30-day extension.

On June 14, 2023, after consulting with DBI Inspector Gilbert Lam (Code Enforcement Section) and Christina Dang (Housing Inspection Services), Chaska Berger emailed Henry Karnilowicz to inform him that a 30-day extension would be granted, so the new deadline to submit a building permit to address the residential use of the property would be July 14, 2023.

On June 20, 2023, Chaska Berger emailed Henry Karnilowicz to inquire about the status of his response to BPA No. 202304276651. Henry Karnilowicz replied stating that he would respond later that day.

On June 22, 2023, Henry Karnilowicz responded to Chaska Berger by email and relayed that he expected to obtain copies of the drawings from DBI's Records Management the following week and would prepare the required plans reflecting the accurate existing conditions.

On July 14, 2023, Planning Enforcement Case for Complaint No. 2023-00920ENF was reassigned (from Chaska Berger) to Heather Samuels.

On July 17, 2023, Henry Karnilowicz submitted a plan set to Heather Samuels via email.

On July 19, 2023, Henry Karnilowicz and Heather Samuels met in person at the Permit Center to review the plan set. Heather Samuels provided comments, requesting that the three (3) guestrooms on the ground level, at the address of 803 Vallejo Street be relocated to the upper floors to comply with Planning Code Section 722, which states that no Residential Uses be permitted on the ground level. Henry Karnilowicz stated that it would not be physically possible to relocate these dwelling units on the ground level and the property owner should not be required to do so since the dwelling units existed prior to the prohibition of residential use on the ground level of the North Beach Neighborhood Commercial District.

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

How to Correct the Violation

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

Obtain issuance of Building Permit Application No. 202304276651 to abate all Planning Code violations. This permit must include the following:

1. Below three conditions:
 - i. “Existing” Condition – last legal condition noting the completed building permit number, which authorized the condition.
 - ii. “As-built” Condition – as the property currently exists.
 - iii. “Proposed” Condition – as you wish to legalize.
2. Floor plans must include interior layouts with restrooms, faucets, and cooking facilities within each dwelling unit and guestroom.
3. As there is no path to legalize the residential uses on the ground floor, the proposed project shall include the proposal to restore the condition on the first floor to the last legal condition showing commercial uses.
4. A table on the cover sheet outlining:
 - i. Number of existing and proposed dwelling units;
 - ii. Number of existing and proposed guestrooms; and
 - iii. Existing and proposed square footage of each room/unit.
5. You must also respond to all plan check comments for this permit within 15 days.

Please visit DBI website, <https://sf.gov/apply-building-permit> for information on the permit application process. **This permit must be diligently pursued and completed.**

Please be advised that upon review of above applications and plan submittals, if it is determined that additional planning applications and processes are required, the Planning Department will notify you to make such submittals.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. Please provide evidence including (such as dimensioned plans, photos, licenses, lease copies, etc.). A site visit will also be required to verify compliance. You may also need to obtain a building permit for any other alterations made to the property. The work approved under any permits to abate

violation must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

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

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

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

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

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

Timeline to Respond

The responsible party has **fifteen (15) days from the date of this notice** to either:

- (1) Take steps to correct the violation as noted above; or
- (2) Appeal this Notice of Violation as noted below.

The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation will result in assessment of administrative penalties at \$1,000 per day for each violation. The Department may also report any licensed professional responsible for the violation(s) to the appropriate local, state, or federal licensing boards.

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

Appeal Processes

If the responsible party believes that this order to remove a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available:

- (1) The responsible party may request a Zoning Administrator Hearing under Planning Code Section 176 within **thirty (30) days** from the date of this notice to show cause why this Notice of Violation is issued in error and should be rescinded by submitting the Request for Zoning Administrator Hearing Form and supporting evidence to the Planning Department. The Zoning Administrator shall render a decision on the Notice of Violation within 30 days of such hearing. The responsible party may then appeal the Zoning Administrator's written decision to the Board of Appeals within 15 days from the date of the decision.
- (2) The responsible party or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation within **fifteen (15) days** from the date of this notice to the Board of Appeals located at:

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

If Board of Appeals upholds the Notice of Violation, it may not reduce the amount of penalty below \$200 per day for each day the violation continues unabated, excluding the period of time the matter was pending either before the Zoning Administrator or before the Board of Appeals.

No penalties are assessed during the period when the matter is pending either before the Zoning Administrator or before the Board of Appeals. However, if the Responsible Party requests continuance of the appeal without a reasonable cause with the Board of Appeals, the penalties may still be assessed during the continuation period.

Administrative Penalties

If a Responsible Party does not request any appeal process and does not take corrective action to abate the violation **within 30 days**, this Notice of Violation will become final. However, **administrative penalties will not begin to accrue until the 30-day period to respond expires**, as detailed above. Beginning on the following day, administrative penalties of up to **\$1,000 per day for each violation** to the Responsible Party will start to accrue for each day the violation continues unabated. If such penalties are assessed, the Planning Department will issue a Notice of Penalty and Fee, and the penalty amount shall be paid **within 30 days** from the issuance date of that notice. Please be advised that payment of penalty does not excuse failure to correct the violation or bar further enforcement action. Additional penalties will continue to accrue until corrective action is taken to abate the violation.

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for "Time and Materials" to recover the cost of correcting the Planning Code violations. Accordingly, the Responsible Party is currently subject to a fee of **\$9,062.96** for "Time and Materials" cost associated with the Code Enforcement investigation for confirmed violation. Additional fees will continue to accrue until the violation is abated. **This fee is separate from the administrative penalties described above and is not appealable.**

Failure to Pay Penalties and Fees

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

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

Recordation of Order of Abatement

Upon the expiration of 90 days following the finality of this Notice of Violation, an Order of Abatement may be recorded against the property's records in the Office of the Recorder of the City and County of San Francisco.

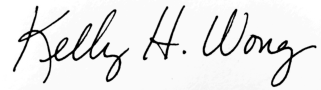
The obligation to correct the violation as set forth in the Order of Abatement shall be Planning Code conditions pursuant to Planning Code Section 174 that run with title to the property. Further, such recordation shall provide notice to each Responsible Party and any subsequent “successor” or “assign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

Any fees associated with recordation of an Order of Abatement will be assessed to the Responsible Party and added to the “Time and Materials” fee discussed above.

Other Applications Under Consideration

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

Sincerely,

Handwritten signature of Kelly H. Wong in black ink on a light gray background.

Kelly Wong
Acting Zoning Administrator

Enc.: Notice of Enforcement dated <4/3/23>

cc: Henry Karnilowicz, Project Representative, occexp@aol.com
Christina Dang, Housing Inspector with Department of Building Inspection, christina.dang@sfgov.org
Gilbert Lam, Building Inspector with Department of Building Inspection, gilbert.lam@sfgov.org



NOTICE OF ENFORCEMENT

May 3, 2023

Property Owner

1449 Powell Street LLC
294 29th Street
San Francisco, CA 94131

Site Address: 1449 Powell Street
Assessor's Block/Lot: 0148/031
Zoning District: NCD, North Beach Neighborhood Commercial
Complaint Number: 2023-000920ENF
Code Violation: Section 175, Unauthorized Alterations
Administrative Penalty: Up to \$250 Each Day of Violation
Enforcement T & M Fee: **\$6,281.00** (Current Fee for confirmed violations, Additional charges may apply)
Response Due: Within 15 days from the date of this Notice
Staff Contact: Chaska Berger, (628) 652-7402, chaska.berger@sfgov.org

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

Description of Violation

The record for the property's authorized use is inconsistent. The subject property is currently authorized for eight family dwelling units and commercial uses according to the Report of Residential Building Record (3R Report). The Assessor's Record lists the authorized use as 35 units. According to the Department of Building Inspection (DBI), the subject property is listed as a private/for profit residential hotel under Chapter 41 of the San Francisco Administrative Code and contains 17 residential guestrooms per the Certificate of Use (14 occupied and 3 vacant as of October 15, 2020). Further, its Chapter 41 Annual Usage Report dated February 25, 2021, lists the property as having an incomplete Annual Unit Usage Report (AUUR).

On February 14, 2023, a Task Force Inspection was conducted at the subject property where unauthorized alterations were confirmed. During the site visit, it was confirmed that the first floor consists of two commercial spaces, including a medical office use at the front of the property and a storage/office use at the rear. There is also an Unauthorized Dwelling Unit (UDU) with a full bathroom, three unauthorized guestrooms, and an unauthorized shared central kitchen with stove on the first floor.

The first floor’s interior configuration of the medical office use at the front of the property appears to have been altered without a building permit or Planning Department review. The commercial space at the rear appears to be used for the storage of mattresses and other various supplies.

Below is a table outlining the assumed legal existing condition with completed Building Permit Application (BPA) and the as-built condition on each floor level:

Floor Level	Legal or “Existing” Condition	Chapter 41 Annual Usage Report	As-built Condition
Basement	BPA No. 2001.0615.1685 with scope of work to remove all fixtures and revert to storage		Two separate toilets and a bathtub
First Floor	BPA No. 2007.0802.8611 with scope of work for Interior remodel of 2 storefront[s] both vacant into medical office replace store front windows and doors		One occupied commercial (medical office) use One unoccupied storage use 1 UDU - dwelling unit 3 residential rooms
Second Floor	Undetermined	7 guestrooms	4 dwelling units and 9 guestrooms
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Total	Potentially 8 dwelling units and 17 guestrooms	17 guestrooms	9 dwelling units and 22 guestrooms

The following table lists the relative BPAs, including the scope of work, use category, and permit status:

Permit	Scope of work	Listed use	Status
2001.0615.1685	Renew app#20000107503 remove illegal Gal unit, kitchen, fixtures, sinks. Remove illegal units in basement and revert basement back to original use as storage as per plan. Remove kitchen fixtures, sinks, cabinets, stove, frig in basement as per 6.4.81 (HID Report)	8 apartments (apt), 17 guestrooms (GRS)	CFC (no plans)
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2017.1113.3835	Soft story program seismic retrofit	8 dwelling and 17 residential hotel & apartments	CFC (plans)

The subject property is located within the North Beach Neighborhood Commercial Zoning District. Pursuant to Planning Code Section 722, Single Room Occupancy uses are permitted on the second floor and above. Per Section 102, Single Room Occupancy is defined as:

“A Residential Use characteristic, defined as a Dwelling Unit or Group Housing room consisting of **no more than one occupied room with a maximum gross floor area of 350 square feet** and meeting the Housing Code's minimum floor area standards. The unit may have a bathroom in addition to the occupied room. As a Dwelling Unit, it would have a cooking facility and bathroom. As a group housing room, it would share a kitchen with one or more other single room occupancy unit/s in the same building and may also share a bathroom. A single room occupancy building (or "SRO" building) is one that contains only SRO units and accessory living space.”

Pursuant to Planning Code Section 722, Residential Uses are Not Permitted (NP) on the first floor at the subject property. Active Commercial uses shall be required at the Ground Floor pursuant to Section [145.4](#) to promote active, pedestrian-oriented streetscape.

Pursuant to Planning Code Section 102, a Dwelling Unit is defined as:

“Residential Use defined as a room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a Dwelling Unit for purposes of this Code. For the purposes of this Code, a Live/Work Unit, as defined in this Section, shall not be considered a Dwelling Unit.”

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

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

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

How to Correct the Violation

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

File a Building Permit Application with detailed floor plans which include the following three conditions. The floor plans must include interior layouts with restrooms, faucets, and cooking facilities within each dwelling unit and guestroom.

- 1) “Existing” Condition – last legal condition noting completed building permit which authorized the

condition.

- 2) "As-built" Condition – as the property currently exists.
- 3) "Proposed" Condition – as you wish to legalize.

Please provide a table on the cover sheet outlining the number of existing and proposed dwelling units, the number of existing and proposed guestrooms. Include the "existing" and "proposed" square footage of each room/unit.

As there is no path to legalize the residential uses on the ground floor, the proposed project shall include the proposal to restore the condition on the first floor to the last legal condition showing commercial uses.

Please visit DBI website, <https://sf.gov/apply-building-permit> for information on the permit application process. **This permit must be diligently pursued and completed.**

Please be advised that upon review of above applications and plan submittals, if it is determined that additional planning applications and processes are required, the Planning Department will notify you to make such submittals.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. Please provide evidence including (such as dimensioned plans, issued and completed permits, licenses, lease copies, and photos. A site visit may also be required to verify compliance. You may also need to obtain a building permit for any other alterations done at the property. The work approved under any permits to abate violation must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

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

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

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

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

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

Timeline to Respond

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

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

Penalties and Appeal Rights

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

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

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party is subject to an amount of **\$6,281.00** or more for "Time and Materials" cost associated with the Code Enforcement investigation. **This fee is separate from the administrative penalties described above and is not appealable.**

Other Applications Under Consideration

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to

abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation. We want to assist you to bring the subject property into full compliance with the Planning Code. You may contact the enforcement planner noted above for any questions on the enforcement and appeal process.

Cc: Gilbert Lam, Code Enforcement Building Inspector, Department of Building Inspection
Matt Luton, Housing Inspection Services, Department of Building Inspection

APPELLANT(S) DID NOT SUBMIT A BRIEF