

*AAB Regular
Meeting of
July 17, 2024*

Agenda Item C2

*Revised Staff Report – Case
No. 6925*

ABATEMENT APPEALS BOARD

City & County of San Francisco

49 South Van Ness Avenue, San Francisco, California 94103-1226



CODE ENFORCEMENT SECTION ABATEMENT APPEALS BOARD STAFF REPORT

Appeal No. 6925

Date of Abatement Appeals Board Hearing: July 17, 2024

Property Address: 201 Ashton Ave

Block: 6932 **Lot:** 008

Date of Report: July 16, 2024 (revised to include Ex. I attachments; Ex. U and updated Staff Report)

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Complaint Number: 201703961

PROPERTY OWNER INFORMATION

Property Owner(s) Name: Emberton & Ruppel Family Trust

Appellant: Mihal Emberton

Appellant's Mailing Address: 201 Ashton Ave., San Francisco, CA 94112

Property and Building Description: One-Story Building in Type VB Construction

Legal Use and Occupancy: Single Family Residential Use in R-3 Occupancy

Case Summary:

Notice of Violation(s): First NOV Issued on September 11, 2017

FWL Issued on March 25, 2022

Nature of Violation: (Violation Description Replicated from Original NOV#201703961; (EXHIBIT - A)
"A complaint investigation has revealed the installation of a new fence on a corner lot without the benefit of a building permit. The fence is on three sides of the property and ranges between 4' and 6' in height. Monthly monitoring fee per Table 1A-K, SFBC Code Section: SFBC 103A"

Narrative of Case Review:

Upon complaint investigation performed on September 2017, DBI building inspector issued the first NOV pertaining to the unauthorized and non-compliant new fences installed surrounding three sides fronting of the premises located at the corner lot of the block. (EXHIBIT – B) The fences were situated at the back of the sidewalk and encroached within the public right-of-way (EXHIBIT – C). The fence heights range between 4 to 6 feet high. The unauthorized and non-compliant fence found multiple violations against code and regulations across various City agencies; from City Planning, Public Works, PUC to DBI. (EXHIBIT – D, E & F) The owner has taken no action to comply with the violation or remove the non-compliant fences within the timeline before the DBI Hearing Office determined to issue an order of abatement.

Outstanding Violations: Yes

Life Safety & Hazards: The unauthorized fence and other elements that have encroached into the public right-of-way are unlawful and undermine the safe path of travel for the people of San Francisco.

Directors Hearing: # 201703961 **Date:** March 7, 2023

Result: Issue Order of Abatement

Appeal No. 6925

Date of Abatement Appeals Board Hearing: July 17, 2024

Property Address: 201 Ashton Ave.

Block: 6932 Lot: 008

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Order of Abatement: 201703961-A. Issued with the following condition: 30 Days to obtain permits and complete including final inspection sign-off to comply with violation and pay for all Code Enforcement fees.

Pertinent Permit & Activity:

On October 17, 2017 property owner filed a building permit (PA #2017/1011/0923, see EXHIBIT – D, G) and attempted to legalize the non-compliant fence; however, this permit has not been approved by DBI to date due to the owner non-responsive to comply with DPW/BSM plan review comments issued in November 2021 and January 2022 (EXHIBIT - E), and failure to obtain approval from DPW for a minor sidewalk encroachment permit (Application #21MSE-006880). The owner followed up an appeal with the City of San Francisco, Board of Appeal on December 2023 (Appeal No. 23-067). The official Notice of Decision & Order has been released on July 9, 2024 (*Exhibit – U*)

CES Code Proceeding History: (*EXHIBIT – G*)

- 09/11/2017 1st Notice of Violation Issued
- 03/25/2022 Final Warning letter
- 02/15/2023 Posted Notice of Director’s Hearing
- 03/07/2023 Directors Hearing Decision – Issue an Order of Abatement
- 04/17/2023 Order of Abatement Posted
- 04/21/2023 Received Abatement Appeals Board Application & Processed
- 06/28/2024 AAB Hearing Notice Posted.

Last Inspection Date: CES | 7/8/2024 | Site Verification for Status Update

Appellant’s Request: Refer to appellant's Second Supplemental Document (*Exhibit – I Atmt*)

Staff recommendation: Uphold the Order of Abatement, including imposing the assessment of costs due to the NOV issued precisely and documenting the fact of violations from a physical inspection performed in September 2017. The property owner replaced the fences in non-compliant fence height at the frontage of the premises within the City right-of-way **without** a building permit, City Planning and Public Works approval. To date, almost seven years after the first NOV issuance, the owner still could not obtain the permit approval to legalize the unauthorized fence. Hence, the Order of Abatement was issued appropriately based on the fact-finding back in April 2023. (*EXHIBIT – H*)

Abatement Appeals Board Action: TBD

LIST OF EXHIBITS AND DOCUMENTS

EXHIBIT A	NOV # 201703961
EXHIBIT B	Existing Site Condition
EXHIBIT C	As-Built Site Condition
EXHIBIT D	Permit Details Report
EXHIBIT E	DPW/BSM Plan Review Comment
EXHIBIT F	Lot Aerial Photo
EXHIBIT G	Complaint Data Sheet
EXHIBIT H	Order of Abatement
EXHIBIT I	AAB Appeal Application & Attachments
EXHIBIT J	AAB Appeal PMT Receipt
EXHIBIT K	Owner of Record
EXHIBIT L	CES Fee PMT History

EXHIBIT M	Initial Bill
EXHIBIT N	Initial Assessment Breakdown
EXHIBIT O	Property Complaint History
EXHIBIT P	Property Permit History
EXHIBIT Q	Notice of AAB Hearing Continuance to 7/17/2024
EXHIBIT R	Declaration of Posting of AAB Appeals Hearing
EXHIBIT S	Certified Mail – Sending AAB Hearing Continuance
EXHIBIT T	FWL – NOV 201703961
EXHIBIT U	DPW Appeal # 23-067 Notice of Decision & Order



NOTICE OF VIOLATION
of the San Francisco Municipal Codes Regarding Unsafe,
Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION NOTICE: 1
City and County of San Francisco
49 South Van Ness Ave, Suite 400 San Francisco, CA

NUMBER: 201703961
DATE: 11-SEP-17

ADDRESS: 201 ASHTON AV

OCCUPANCY/USE: R-3 (RESIDENTIAL- 1 & 2 UNIT DWELLINGS,TOWNHOUSES) BLOCK: 6932 LOT: 008

If checked, this information is based upon site-observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

OWNER/AGENT: EMBERTON & RUPPEL FMLY TR
MAILING EMBERTON & RUPPEL FMLY TR
ADDRESS MIHAL L EMBERTON & RAELYN E
201 ASHTON AVE
SAN FRANCISCO CA 94112

PHONE #: --

PERSON CONTACTED @ SITE: EMBERTON & RUPPEL FMLY TR

PHONE #: --

VIOLATION DESCRIPTION:

Table with 2 columns: Violation Description and CODE/SECTION#. Includes items like WORK WITHOUT PERMIT, ADDITIONAL WORK-PERMIT REQUIRED, EXPIRED OR CANCELLED PERMIT PA#, UNSAFE BUILDING, SEE ATTACHMENTS.

A complaint investigation has revealed the installation of a new fence on a corner lot without the benefit of a building permit. The fence is on three sides of the property and ranges between 4' and 6' in height. Monthly monitoring fee per Table 1A-K, SFBC Code Section: SFBC 103A

CORRECTIVE ACTION:

- STOP ALL WORK SFBC 104.2.4
FILE BUILDING PERMIT WITHIN 30 DAYS (WITH PLANS) A copy of This Notice Must Accompany the Permit Application
OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 90 DAYS, INCLUDING FINAL INSPECTION SIGNOFF.
CORRECT VIOLATIONS WITHIN DAYS. NO PERMIT REQUIRED
YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.
FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN. SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Obtain building permit with plans and Planning Department approval; or, reduce fence to 3'in height.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

- 9x FEE (WORK W/O PERMIT AFTER 9/1/60) 2x FEE (WORK EXCEEDING SCOPE OF PERMIT) NO PENALTY (WORK W/O PERMIT PRIOR TO 9/1/60)
OTHER: REINSPECTION FEE \$
APPROX. DATE OF WORK W/O PERMIT VALUE OF WORK PERFORMED W/O PERMITS \$

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Carl W Weaver

PHONE # 628-652-3636

DIVISION: BID

DISTRICT :

By:(Inspector's Signature)



Top Photo: Captured in 2016 (Source - Google Map)
Existing wooden fence located at frontage of premises
along Ashton Ave and Holloway Ave



Bottom Photo: Captured in 2017 (Source - Google Map)
Observed unauthorized wooden fence erecting surrounding
the frontage of premises along Ashton Ave and Holloway Ave.



Top Photo: Photo captured on 7/8/2024 @ the corner of Ashton/Holloway Ave. Unauthorized fence remained at the frontage of premises and encroaching legally into the public right-of-way own by County of San Francisco.



Bottom Photo: captured on 7/8/2024 along Holloway Ave. near Ashton Ave. intersection. Unauthorized fence remained encroaching into the public right-of-way own by County of San Francisco.



Photo to the Right: Zoom-in to the neighboring fence located behind the County right-of-way.



DEPARTMENT OF BUILDING INSPECTION

City and County of San Francisco
 49 South Van Ness Ave, Suite 400 San Francisco, CA 94103-1226

Date: 07/09/24 14:03:54

Permit details report

Application Number: 201710110923

Bluebeam ID:

Form Number: 8 **Application Description:** TO COMPLY WITH NOV 201703961 - REMOVE BLIGHT TO REPAIR DILAPIDATED ROTTING, DANGEROUS 4 FT WOODEN FENCE SURROUNDING THE FRONT OF HOME; REPLACE A RAT INFESTED 10 FT HIGH OVERGROWN HEDGE ALONGSIDE DRIVEWAY WITH 4-6 FT WOODEN FENCE

Address:
 6932/008/0 201 ASHTON AV

Cost:

\$1,800

Occupancy code: R-3

Building Use: 27 -1 FAMILY DWELLING

Disposition/Stage:

Action Date	Stage	Comments
11-OCT-2017	TRIAGE	
11-OCT-2017	FILING	
11-OCT-2017	FILED	

Contact Details:

Contractor Details

Addenda Details:

Description:

Step #	Station	Arrive Date	Start Date	In Hold	Out Hold	Finish Date	Plan Checked by	Hold Description
1	BID-INSP							
2	INTAKE	11-OCT-2017	11-OCT-2017			11-OCT-2017	PANGELINAN MAR	
3	CP-ZOC	24-NOV-2021	24-NOV-2021			24-NOV-2021	TAN ADA	Approved. Legalize fence on front setback per approval granted under Variance (2018-002358VAR). To comply with 2017-012837ENF. (ada.tan@sfgov.org, 11/24/2021).
4	BLDG	24-NOV-2021	24-NOV-2021			24-NOV-2021	BARNES JEFF	Approved OTC to BSM
5	DPW-BSM	24-NOV-2021	24-NOV-2021	08-FEB-2023			KEVIN LI	ON HOLD 1/13/22. Permit #21MSI 00688. Comments to be addressed: 1) Fence height to be reduced to 3 feet, 2) 3 feet clearance around the streetlight pole/pull box required by SFPUC 3) 3 feet path of travel required between the trees and fence and 4) cedar pergola and propane fire table shall be removed).-KL ON HOLD 11/24/21. Requirement for sign off: Minor Sidewalk Encroachment (existing unpermitted fence encroaches 9 feet into the right-of-way on 3 sides).-KL
6	CPB							



Department of Building Inspection

City & County of San Francisco
 1660 Mission Street, San Francisco, CA 94103-2414



REVIEW STATION/ROUTING AUDIT REPORT (PTS audit data only available after March 2006)

Application: 201710110923

Addendum: 0

Report time: 07-JUL-24 05:39 PM

Station: DPW-BSM

Step: 5

Job Address: 201 ASHTON AV

<u>Audit Date/Time</u>	<u>User</u>	<u>Action</u>	<u>Field</u>	<u>New Data</u>
11-OCT-17 11:37:19 AM	MARIANNE PANGELINAN	INSERT		
11-OCT-17 11:37:26 AM	MARIANNE PANGELINAN	UPDATE	STEP_NUMBER	5
24-NOV-21 11:45:09 AM	KLI	UPDATE	ARRIVE_DATE	24-NOV-21 10:54:31 AM
24-NOV-21 11:45:09 AM	KLI	UPDATE	ASSIGN_DATE	24-NOV-21 10:54:32 AM
24-NOV-21 11:45:09 AM	KLI	UPDATE	START_DATE	24-NOV-21 10:54:33 AM
24-NOV-21 11:45:09 AM	KLI	UPDATE	IN_HOLD	24-NOV-21 11:42:27 AM
24-NOV-21 11:45:09 AM	KLI	UPDATE	COMMENTS	ON HOLD 11/24/21. Requirement for sign off: Minor Sidewalk Encroachment (existing unpermitted fence encroaches 9 feet into the right-of-way on 3 sides).-KL
24-NOV-21 11:45:09 AM	KLI	UPDATE	PLAN_CHECKER	KEVIN LI
13-JAN-22 03:25:01 PM	KLI	UPDATE	COMMENTS	ON HOLD 1/13/22. Permit #21MSE-00688. Conditions to be addressed: 1) Fence height to be reduced to 3 feet, 2) 3 feet clearance around the streetlight pole/pull box required by SFPUC 3) 3 feet path of travel required between the trees and fence and 4) cedar pergola and propane fire table shall be removed).-KL
				ON HOLD 11/24/21. Requirement for sign off: Minor Sidewalk Encroachment (existing unpermitted fence encroaches 9 feet into the right-of-way on 3 sides).-KL
13-JAN-22 03:30:11 PM	KLI	UPDATE	COMMENTS	ON HOLD 1/13/22. Permit #21MSE-00688. Comments to be addressed: 1) Fence height to be reduced to 3 feet, 2) 3 feet clearance around the streetlight pole/pull box required by SFPUC 3) 3 feet path of travel required between the trees and fence and 4) cedar pergola and propane fire table shall be



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City & County of San Francisco
1660 Mission Street, San Francisco, CA 94103-2414



REVIEW STATION/ROUTING AUDIT REPORT (PTS audit data only available after March 2006)

Application: 201710110923

Addendum: 0

Report time: 07-JUL-24 05:39 PM

Station: DPW-BSM

Step: 5

Job Address: 201 ASHTON AV

Audit Date/Time

User

Action

Field

New Data

removed).-KL

ON HOLD 11/24/21. Requirement for sign off: Minor Sidewalk Encroachment (existing unpermitted fence encroaches 9 feet into the right-of-way on 3 sides).-KL

08-FEB-23 12:15:24 PM	MATTHEW GREENE	UPDATE	IN_HOLD	08-FEB-23 12:15:08 PM
08-FEB-23 12:15:24 PM	MATTHEW GREENE	UPDATE	PLAN_CHECKER	
12-SEP-23 08:27:50 AM	CCHOY	UPDATE	PLAN_CHECKER	KEVIN LI



**Top Photo: Aerial Photo @ the corner of Ashton/Holloway Ave
 Demonstrating dimension and full extent of public right-of-way
 in relation to the subject lot and premises location.
 (Photo Source from SFPW Appeal No. 23-067)**



**Photo to the Left:
 Sidewalk along northerly Holloway Ave.**

The unauthorized solid fence over 4 feet high illegally encroached 9 feet into the public right-of-way has restricted the maneuvering space to the people who ride on a wheelchair travel along the sidewalk, it also posing higher risk to the people with vision impairment walking along the sidewalk.



City and County of San Francisco
 Department of Building Inspection
 49 South Van Ness Ave, Suite 400
 San Francisco, CA 94103-1226

COMPLAINT DATA SHEET

COMPLAINT NUMBER : 201703961

OWNER/AGENT: EMBERTON & RUPPEL FMLY TR
 EMBERTON & RUPPEL FMLY TR
 MIHAL L EMBERTON & RAELYN E
 201 ASHTON AVE
 SAN FRANCISCO CA
 94112

DATE FILED: 06-SEP-17
LOCATION: 201 ASHTON AV
BLOCK: 6932 **LOT:** 008
SITE:
RATING: **OCCUPANCY CODE :**
RECEIVED BY: Adora Canotal **DIVISION:** PID
COMPLAINT SOURCE: 311 INTERNET REFERRAL
ASSIGNED TO DIVISION: CES

OWNER'S PHONE: --
CONTACT NAME:
CONTACT PHONE: --

COMPLAINANT: anonymous

COMPLAINANT'S PHONE: --

DESCRIPTION: The resident at this address has been consistently doing construction and playing loud music from 10am-6pm/7pm most days of the week. I would like to request the music volume be lowered or turned off. I can hear it in my apartment all day.
INSTRUCTIONS: 311 SR No. 7570260

INSPECTOR CURRENTLY ASSIGNED

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
CES	LAM	6383		

REFERRAL INFORMATION

DATE	REFERRED BY	TO	COMMENT
31-JAN-19	Mauricio Hernandez	BID	Case refer to BID per email, owner is working on a variance process with DCP mh
18-DEC-17	Sylvia Thai	CES	per Carl Weaver to CES
28-MAR-22	Thu Ha Thi Truong	CES	per JG

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	INSPECTOR	STATUS	COMMENT	UPDATED BY	DIVISION
06-SEP-17	CASE OPENED	C WEAVER	CASE RECEIVED		Adora Canotal 06-SEP-17	PID
07-SEP-17	OTHER BLDG/HOUSING VIOLATION	C WEAVER	CASE UPDATE	case reviewed, to be assigned to complaint investigation team. mh	Mauricio Hernandez 07-SEP-17	BID
08-SEP-17	OTHER BLDG/HOUSING VIOLATION	C WEAVER	CASE UPDATE	Case review permit research. C Weaver	Carl Weaver 08-SEP-17	BID



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Department of Building Inspection
49 South Van Ness Ave, Suite 400
San Francisco, CA 94103-1226

COMPLAINT DATA SHEET

COMPLAINT NUMBER : 201703961

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	INSPECTOR	STATUS	COMMENT	UPDATED BY	DIVISION
11-SEP-17	OTHER BLDG/HOUSING VIOLATION	C WEAVER	FIRST NOV SENT	A complaint investigation revealed the installation of a new fence without the benefit of a building permit. A notice of violation was issued. C Weaver	Sylvia Thai 12-SEP-17	INS
13-OCT-17	OTHER BLDG/HOUSING VIOLATION	C WEAVER	CASE UPDATE	PA 201710110923 was filed to comply with NOV. C Weaver	Carl Weaver 13-OCT-17	BID
14-DEC-17	OTHER BLDG/HOUSING VIOLATION	C WEAVER	FINAL WARNING LETTER SENT	No permit to comply issued. C Weaver	Carl Weaver 14-DEC-17	BID
18-DEC-17	OTHER BLDG/HOUSING VIOLATION	C WEAVER	CASE UPDATE	Mailed NOV Final Warning letter; s.thai.	Sylvia Thai 18-DEC-17	INS
18-DEC-17	GENERAL MAINTENANCE	C WEAVER	REFERRED TO OTHER DIV	transfer to div CES	Sylvia Thai 18-DEC-17	INS
20-DEC-17	GENERAL MAINTENANCE	J HINCHION	CASE RECEIVED	JP	Jennie Pham 18-DEC-17	CES
20-MAR-18	WITHOUT PERMIT - OTHER	M GUNNELL	PERMIT RESEARCH	permit filed only	Michael Gunnell 20-MAR-18	BID
20-MAR-18	WITHOUT PERMIT - OTHER	M GUNNELL	CASE UPDATE	Schedule for directors hearing	Michael Gunnell 20-MAR-18	BID
07-MAY-18	WITHOUT PERMIT - OTHER	M GUNNELL	CASE RETURNED	case returned to staff per H.O	Michael Gunnell 07-MAY-18	BID
31-JAN-19	WITHOUT PERMIT - OTHER	D SIMAS	REFER TO DIRECTOR'S HEARING	1/16/19 schedule for DH. Permit # 201710110923 has been filed ds	John Hinchion 22-FEB-19	CES
31-JAN-19	OTHER BLDG/HOUSING VIOLATION	J GUAUIMI	CASE RECEIVED	Case received and forwarded to J. Guaiumi per MH; slw	Suzanna Wong 31-JAN-19	BID
31-JAN-19	OTHER BLDG/HOUSING VIOLATION	J GUAUIMI	CASE UPDATE		Mauricio Hernandez 31-JAN-19	BID
31-JAN-19	GENERAL MAINTENANCE	J HINCHION	REFERRED TO OTHER DIV	transfer to div BID per MH,	Mauricio Hernandez 31-JAN-19	BID
01-FEB-19	OTHER BLDG/HOUSING VIOLATION	J GUAUIMI	CASE UPDATE	a letter granting a variance to legalize the fence is forthcoming. planning requests that DBI hold off on any further enforcement action. 90 day extension granted. JG	Jimmy Guaiumi 01-FEB-19	BID
01-MAY-19	OTHER BLDG/HOUSING VIOLATION	J GUAUIMI	CASE CONTINUED	still in planning. JG	Jimmy Guaiumi 01-MAY-19	BID
01-JUL-19	OTHER BLDG/HOUSING VIOLATION	J GUAUIMI	CASE UPDATE	still in Planning. JG	Jimmy Guaiumi 01-JUL-19	BID



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Department of Building Inspection
49 South Van Ness Ave, Suite 400
San Francisco, CA 94103-1226

COMPLAINT DATA SHEET

COMPLAINT NUMBER : 201703961

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	INSPECTOR	STATUS	COMMENT	UPDATED BY	DIVISION
09-SEP-19	OTHER BLDG/HOUSING VIOLATION	J GUA IUMI	CASE UPDATE	no forward movement. JG	Jimmy Guaiumi 09- SEP-19	BID
08-NOV-19	OTHER BLDG/HOUSING VIOLATION	J GUA IUMI	CASE UPDATE	customer brought new sheets for review. JG	Jimmy Guaiumi 08- NOV-19	BID
07-JAN-22	OTHER BLDG/HOUSING VIOLATION	C MALCHOW	CASE UPDATE	In routing process on hold with DPW last action 11/24/2021 OK to continue		
25-MAR-22	OTHER BLDG/HOUSING VIOLATION	C MALCHOW	FINAL WARNING LETTER ISSUED	No permit found to comply with NOV referred to CES		
28-MAR-22	OTHER BLDG/HOUSING VIOLATION	J GUA IUMI	CASE UPDATE	FWL mailed, case referred to CES per JG;tt	Thu Ha Thi Truong 28-MAR-22	INS
01-APR-22	OTHER BLDG/HOUSING VIOLATION	J HINCHION	CASE UPDATE	Case received in CES. SB	Sonya Bryant 01- APR-22	CES
01-APR-22	OTHER BLDG/HOUSING VIOLATION	J HINCHION	TELEPHONE CALLS	Additional requirements imposed by other agencies prior to approval of filed permit. Jh		
26-JAN-23	OTHER BLDG/HOUSING VIOLATION	G LAM	REFER TO DIRECTOR'S HEARING	Case reviewed. Pa201710110923 to comply still has not been issued and has not activity as of 11/22. Schedule for DH 3/7/23. -GL		
08-FEB-23	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	Prepared DH packet. SB	Sonya Bryant 08- FEB-23	CES
15-FEB-23	OTHER BLDG/HOUSING VIOLATION	G LAM	DIRECTOR HEARING NOTICE POSTED	DH Notice Posted. Pictures Processed. GL		
16-FEB-23	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	Cert mailed DH packet to owners on file. SB	Sonya Bryant 16- FEB-23	CES
27-FEB-23	OTHER BLDG/HOUSING VIOLATION	G LAM	PERMIT RESEARCH	Permit Research Performed. Prepared H/1 for HO. -GL		
07-MAR-23	OTHER BLDG/HOUSING VIOLATION	J HINCHION	DIRECTOR'S HEARING DECISION	Ok to issue OOA per HO (B.H.) with staf recommendation - owner/rep present at DH. Jh	John Hinchion 08- MAR-23	CES
21-MAR-23	OTHER BLDG/HOUSING VIOLATION	C WEAVER	CASE UPDATE	Mailed 1st NOV; s.thai.	Haruyo Gibbons 21- MAR-23	CES
21-MAR-23	OTHER BLDG/HOUSING VIOLATION	G LAM	ORDER OF ABATEMENT ISSUED	OOA being issued. Inspector Fees and MMF Processed. -GL		



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COMPLAINT DATA SHEET

COMPLAINT NUMBER : 201703961

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	INSPECTOR	STATUS	COMMENT	UPDATED BY	DIVISION
21-MAR-23	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	AAB payment and application recieved. Once OOA is issued wait 2 days to process it -hg	Haruyo Gibbons 21-MAR-23	CES
13-APR-23	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	Prepared OOA. SB	Sonya Bryant 13-APR-23	CES
13-APR-23	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	Cert mailed OOA to owners on file. SB	Sonya Bryant 13-APR-23	CES
17-APR-23	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	OOA Posted. Picture Processed. -GL		
21-APR-23	OTHER BLDG/HOUSING VIOLATION	G LAM	ABATEMENT APPEALS BOARD HRG	AAB payment processed and case reserved for AAB-tm	Thomas Moyer 21-APR-23	CES
10-MAY-24	OTHER BLDG/HOUSING VIOLATION	G LAM	ABATEMENT APPEALS BOARD HRG	AAB NOH Cert mailed to owners on file-tm	Thomas Moyer 10-MAY-24	CES
13-MAY-24	OTHER BLDG/HOUSING VIOLATION	G LAM	ABATEMENT APPEALS BOARD HRG	AAB NOH Cert mailed to apellant on file tm	Thomas Moyer 13-MAY-24	CES
13-MAY-24	OTHER BLDG/HOUSING VIOLATION	G LAM	ABATEMENT APPEALS BOARD HRG	AAB NOH Posted. Pictures Processed. -GL	Gilbert Lam 13-MAY-24	CES
28-MAY-24	OTHER BLDG/HOUSING VIOLATION	G LAM	ABATEMENT APPEALS BOARD HRG	AAB CNOH Cert mailed to owner and apellant on file-tm	Thomas Moyer 28-MAY-24	CES
28-JUN-24	OTHER BLDG/HOUSING VIOLATION	J PENA	CASE UPDATE	On behalf of senior Building Inspector J. NG. Posted notice of AAB hearing schedule on 07/17/2024 and photos taken schedule. J. Peña	Joe Pena 28-JUN-24	CES
01-JUL-24	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	CM CNOH AAB to owner-hb	Heather Brooks 01-JUL-24	CES
03-JUL-24	OTHER BLDG/HOUSING VIOLATION	J NG	ABATEMENT APPEALS BOARD HRG	Case History reserch for AAB Hearing Staff Report Preparation -jn	Joe Ng 07-JUL-24	CES
05-JUL-24	OTHER BLDG/HOUSING VIOLATION	J NG	ABATEMENT APPEALS BOARD HRG	Complie AAB Hearing Staff Report -jn	Joe Ng 07-JUL-24	CES
08-JUL-24	OTHER BLDG/HOUSING VIOLATION	J NG	ABATEMENT APPEALS BOARD HRG	Reverified site condition on 7/8/2024. Observed violation condition and correction works remains incomplete. Captured field photos for record. -jn	Joe Ng 08-JUL-24	CES
08-JUL-24	OTHER BLDG/HOUSING VIOLATION	G LAM	CASE UPDATE	CM returned signed-hb	Heather Brooks 09-JUL-24	CES



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DATE	TYPE	INSPECTOR	STATUS	COMMENT	UPDATED BY	DIVISION
09-JUL-24	OTHER BLDG/HOUSING VIOLATION	J NG	ABATEMENT APPEALS BOARD HRG	Records research, review and complie AAB Hearing Staff Report -jn	Joe Ng 09-JUL-24	CES

COMPLAINT ACTION BY DIVISION

DIVISION	DATE	DESCRIPTION	ACTION COMMENT
----------	------	-------------	----------------

<u>NOV (HIS)</u>	<u>NOV (BID)</u>		
	11-SEP-17		

City and County of San Francisco
Department of Building Inspection



London N. Breed, Mayor
Patrick O'Riordan, C.B.O., Director

ORDER OF ABATEMENT

April 12, 2023

Owner:
EMBERTON & RUPPEL FMLY TR
MIHAL L EMBERTON & RAELYN E
201 ASHTON AVE SAN FRANCISCO CA
94112

Property Address: 201 ASHTON AV,

Block: 6932 Lot: 008 Seq: 00
Tract: Case: BW 0
Complaint: 201703961A

Inspector/Division: Lam

ORDER OF ABATEMENT UNDER SAN FRANCISCO BUILDING CODE SECTION 102A.6 & 102A.7 ORDER NO. 201703961A

HEARING OF THE COMPLAINT OF THE DIRECTOR OF THE DEPARTMENT OF BUILDING INSPECTION AGAINST THE PROPERTY AT THE LOCATION SHOWN ABOVE WAS HELD ON _____ IN ACCORDANCE WITH THE SAN FRANCISCO BUILDING CODE SECTION 102A5. THE HEARING WAS CONDUCTED BY A REPRESENTATIVE OF THE DIRECTOR. THE OWNER WAS REPRESENTED

BASED UPON THE FACTS AS SUBMITTED AT THE HEARING, THE DIRECTOR FINDS AND DETERMINES AS FOLLOWS:

1. THAT NOTICE HAS BEEN DULY GIVEN AS REQUIRED BY LAW AND THE ORDER OF THE DIRECTOR, AND MORE THAN 10 DAYS PRIOR TO THE HEARING.
2. THAT THE CONDITIONS ARE AS STATED IN THE COMPLAINT OF THE DIRECTOR OF THE DEPARTMENT OF BUILDING INSPECTION.
3. THAT THE CONDITIONS OF SAID STRUCTURE CONSTITUTES A PUBLIC NUISANCE UNDER THE TERMS OF THE BUILDING CODE OF THE CITY AND COUNTY OF SAN FRANCISCO.

THE DIRECTOR HEREBY ORDERS THE OWNER OF SAID BUILDING TO COMPLY WITH THE FOLLOWING:

30 Days to Obtain Permit and Complete including Final Signoff to Comply with NOV# 201703961 and Pay All CES Fees.

THE TIME PERIOD SHALL COMMENCE FROM THE DATE OF THIS ORDER. THE DEPARTMENT OF BUILDING INSPECTION SHALL BE REIMBURSED BY THE OWNER OF SAID BUILDING FOR ABATEMENT COSTS PURSUANT TO THE ATTACHED AND FUTURE NOTICES.

APPEAL: PURSUANT TO SECTION 105A3 OF THE SAN FRANCISCO BUILDING CODE, ORDERS PERTAINING TO DISABLED ACCESS MAY BE APPEALED TO THE ACCESS APPEALS COMMISSION. PURSUANT TO SECTION 105A2 OF THE SAN FRANCISCO BUILDING CODE, ORDERS PERTAINING TO WORK WITHOUT PERMIT MAY BE APPEALED TO THE ABATEMENT APPEALS BOARD. APPEALS MUST BE IN WRITING ON FORMS OBTAINED FROM THE APPROPRIATE APPEALS BODY AT 49 South Van Ness Ave, Suite 400, San Francisco, CA 94103, tel: (628) 6523517, (628) 6523430, AND MUST BE FILED WITH THE SECRETARY OF THE APPEALS BODY WITHIN FIFTEEN (15) DAYS OF THE POSTING AND SERVICE OF THIS ORDER.

John Hinchion, Chief Building Inspector
Department of Building Inspection

Very truly yours

Patrick O'Riordan, C.B.O., Director
Department of Building Inspection

Code Enforcement Division
49 South Van Ness Ave, Suite 400 San Francisco, CA 94103-1226
Office (628) 652-3430 - FAX (628) 652-3439 - www.sfdbi.org

APPEAL TO THE ABATEMENT APPEALS BOARD OF THE CITY AND COUNTY OF SAN FRANCISCO FROM THE BUILDING INSPECTION DEPARTMENT DIRECTOR'S ORDER

Check Type of Appeal: [X] Appeal of Director's Order [] Request for Jurisdiction [] Re-hearing

Appellant Name: Mihal Emberton

Appeal Number

Director's Order No

Date Appeal Filed: March 20, 2023

Complaint Tracking No(s) 201703961

Filing Fee: \$158.10

Instructions: Please (1) answer all the questions on pages 1 and 2 for appeals of Director's Orders, and complete pages 1 through 3 for Requests for Jurisdiction, (2) sign the bottom of page 2 (and 3 if applicable), and (3) include the requisite filing fee of \$158.10 (checks are payable to the San Francisco Department of Building Inspection). Please attach additional pages as necessary and print legibly.

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

Appellant Questionnaire & Declaration: The undersigned appellant hereby appeals to the AAB and makes the following allegations in connection therewith:

- (1) The Order appealed from was made at a public hearing by the Director of Building Inspection, of the City and County of San Francisco, on Tuesday March 7, 2023.
(2) The affected premises are located at 201 Ashton Avenue San Francisco. They contain one single family dwelling units and n/a guest rooms.
(3) State in ordinary and concise language the specific nature of the action appealed from, together with any material facts relating thereto. See attached
(4) State the relief you seek and reasons why you claim the appealed action should be modified or reversed by this board. (Attach additional sheet(s) if necessary.) see attached
(5) Please state /check appellant's relationship to the property: [X] property owner [] owner's agent [] attorney [] architect [] engineer [] contractor [] other
(6) Appellant's Information: Print Appellant's Name: Mihal Emberton Daytime Phone Number: 530-219-0665

Appellant's Mailing Address: 201 Ashton Avenue, San Francisco, CA 94112

Abatement Appeals Board (AAB) Tel. (628) 652-3517 - (628) 652-3426 49 South Van Ness Avenue Suite 400, San Francisco, CA 94103

Abatement Appeals Board Appeal Application Form

Page Two

(7) Please state any work that you are aware of that was performed at the subject property without required building, plumbing, electrical permits: NONE

(8) Did the current owner(s) of record own the property when this work was performed? Yes No

(9) If no, explain property purchases and approximate time when work was performed:

(10) Please state any work completed to correct the related code violations: removal of blight was completed prior to NOV. attached ^{See}

(11) What was the extent of the work performed? How much remains to be completed?

(12) When was the work done? 2017

(13) Who did the work? self

(14) What is your occupation? If you are a co-owner, list all other co-owners and other occupants.

(15) Do you own other properties in San Francisco? Yes No

(16) If yes, do any of these properties have active Department of Building Inspection code enforcement cases or Orders of abatement? Yes No

(17) If Yes, please list Complaint Tracking or Order numbers

(18) Have you owned property in San Francisco before? Yes No

(19) Are you aware that building, plumbing, and/or electrical permits may be required to abate the subject code violations? Yes No N/A

(20) Have you applied for the required permits to abate the subject code violations? Yes No N/A

If yes, please list permit applications:

- Building Permit Application Nos. _____
- Plumbing Permit Application Nos. _____
- Electrical Permit Application Nos. _____

(21) What other permits have you been granted by the City? _____

(22) What other facts do you want the Board to consider?

See attached

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct.

Print Name: Mihal Emberton

Signature: M. Emberton

Date Signed: March 20, 2023

Signatory is property owner agent other _____

Abatement Appeals Board Appeal Application Form
Addendum for Jurisdiction Requests Only
Page Three

Instructions: If you are requesting that the AAB take jurisdiction of an appeal after the requisite appeal period has expired please complete the following questionnaire:

Jurisdiction of the Abatement Appeals Board & Filing Time Periods: Pursuant to Chapter 77.5 of the San Francisco Administrative Code, the AAB has the power to grant jurisdiction after the appeal period has expired only upon a showing by the appellant that the delay in filing the appeal was due to misrepresentation, mistake, or other error on the part of the City. (Admin. Code Chp. 77.5(b)(2)). A Request for Jurisdiction shall be filled within fifteen (15) days from the date the Board Secretary has rejected an appeal, or fifteen (15) days after the appellant has actual or constructive knowledge of the right to appeal.

- (1) Date of Request: _____
- (2) Date AAB Secretary rejected appeal or date appellant made aware of right to appeal

- (3) Please explain why there was a delay in filing the appeal:

- (4) Please describe the alleged misrepresentation, mistake, or other error on the part of the City that caused the delay (attach additional sheet(s) if necessary):

- (5) What other facts do you want the Board to consider regarding the request for jurisdiction?

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct.

Print Name: _____ Signature: _____

Date Signed: _____ Signatory is property owner agent other _____

Abatement Appeals Board (AAB)
Tel. (628) 652-3517 - (628) 652-3426
49 South Van Ness Avenue Suite 400, San Francisco, CA 94103

APPEAL TO THE ABATEMENT APPEALS BOARD OF THE CITY AND COUNTY OF SAN FRANCISCO FROM THE
BUILDING INSPECTION DEPARTMENT DIRECTOR'S ORDER
Second Supplemental Document

Appellant Questionnaire & Declaration: The undersigned appellant hereby appeals to the AAB and makes the following allegations in connection therewith:

(4) State the relief you seek and reasons why you claim the appealed action should be modified or reversed by this board.

As stated in our original appeal, mailed March 30, 2023:

“The legal reasons that the board should reverse the Director’s Hearing Decision to pursue abatement proceedings are listed above.

The likely *easiest* relief for this board to provide would be to remove the illegal DPW hold on the fence repair permit to allow this innocent family to finalize the fence repair permit to close the Notice of Violation.

The *most just*, democratic relief would be to denounce the illegal DBI search and seizure that lead to an untrue and legally irrational Notice of Violation, to denounce the untrue and illegal claims of jurisdiction by DPW, and to prevent illegal government actions by our City General Plan agencies that exploit innocent citizens, which might be outside of the power and jurisdiction of this board.”

Additionally, we recently received the Order of Abatement dated April 12, 2023, which ORDERS “30 Days to Obtain Permit and Complete including Final Signoff to Comply with NOV# 201703961 and Pay All CES Fees,” which are listed as \$4,725.43. Not only should the illegal DPW hold be removed from the permit/variance in order to close NOV# 201703961, but this illegal fee should also be revoked/repealed as it is arbitrary and unjustified.

Statement of Facts: Again, in 2017 we proceeded with a like-for-like repair/replacement of the 4-foot dilapidated and aging wooden fence along the sidewalk, *following* Building Code Sec 102A, which requires that “unsafe buildings, structures, property, or portions thereof, are hereby declared to be public nuisances and shall be... repaired.”

Building Code Sec 102A UNSAFE BUILDINGS, STRUCTURES OR PROPERTY also states:

“Whenever the Building Official determines by inspection that property or properties either improved or unimproved are unstable because of landslide, subsidence or inundation or that such occurrences are deemed imminent as described above, the Building Official shall give written notice to the owner or owners that said property or properties are unsafe. The notice shall specify the conditions creating the unsafe classification. All such unsafe buildings, structures, property, or portions thereof, are hereby declared to be public

APPEAL TO THE ABATEMENT APPEALS BOARD OF THE CITY AND COUNTY OF SAN FRANCISCO FROM THE
BUILDING INSPECTION DEPARTMENT DIRECTOR'S ORDER
Second Supplemental Document

nuisances and shall be vacated, repaired, altered or demolished as hereinafter provided.”¹

However, despite this code *requiring* the Building Official to “specify the conditions creating the unsafe classification,” NO unsafe conditions were listed on the NOV# 201703961.

AND, (1) despite this code *requiring* the Building Official to “specify the conditions creating the unsafe classification,” but NO unsafe conditions were listed on the NOV# 201703961, and (2) despite this code requiring repair of unsafe property conditions (which this citizen already completed), and (3) despite this code NOT requiring a permit to repair unsafe property conditions, and (4) despite the fact that the illegal DBI search and seizure gained the knowledge of the *repair* of a dilapidated fence *in compliance* with this code, DBI continued further with Property Crime Proceedings by filing a Notice of Violation falsely alleging a property crime of “installation of a new fence on a corner lot without the benefit of a building permit,” and illegally convicting this citizen to “obtain building permit with plans and Planning Department approval; or, reduce fence to 3’ in height.” DBI alleging and convicting this citizen for property crime where NO property crime NOR any violation of code NOR any dangerous property exists, is not only legally irrational, but it is also criminal.

And despite obtaining a building permit with variance approval to *comply* with this illegal DBI allegation and conviction of a crime of property where NO property crime exists, DPW then placed an illegal hold on the permit with their fraudulent allegations/convictions, preventing us from closing our permit with variance to close NOV# 201703961.

Again, DPW’s arbitrary and unreasonable deprivation of our Fundamental Liberty Right of Privacy illegally seized knowledge of the **ABSENCE of a public right-of-way within our property**, the presence of an arbor, a portion of which is in the front setback and a portion of which is located in the owner’s private open space, the presence of a variance-approved 4-foot fence along the property line, and a legal and permitted fire table, garden features which together fulfill the government interest in *protecting* the life and safety of the public, *enhancing* the urban canopy, *improving* property values, and *inviting* civic engagement in outdoor spaces. However, despite wholly fulfilling Planning, Building, and Safety Codes, Residential Design Guidelines² (a 63-page manual) and Recreational and Open Space Policies³, DPW initiated additional Property Crime Proceedings by placing an illegal hold on the fence permit which is needed to close the Notice of Violation and mandating ‘removal of the arbor, excavation of the gas line for the fire table, and deconstruction of the fence to 3-feet in height’ **despite the fact that NONE of these items are located in any public right-of-way and despite the fact that there is NO public right-of-way within our property.** DPW alleging and convicting this citizen for property crime where NO property crime nor any violation of DPW code exists, is not only legally irrational and shocks the conscience, but it is also brazenly criminal.

¹https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_building/0-0-0-91651, Accessed 3-2-2023.

²https://default.sfplanning.org/publications_reports/residential_design_guidelines.pdf, Accessed 2-18-2023.


³Recreational & Open Space; An Element of the San Francisco General Plan. San Francisco Planning Department. Updated January 2019. Accessed initially 2-13-2022.

https://generalplan.sfplanning.org/Recreation_OpenSpace_Element_ADOPTED.pdf

APPEAL TO THE ABATEMENT APPEALS BOARD OF THE CITY AND COUNTY OF SAN FRANCISCO FROM THE
BUILDING INSPECTION DEPARTMENT DIRECTOR'S ORDER
Second Supplemental Document

Requested Relief: The fact that DPW (*the City itself*) has *illegally* prevented this citizen from completing the permit/variance mandated by DBI to close NOV# 201703961, is not an action that this citizen is or should-be-held responsible for and thus, the arbitrary, unjustified, and illegal \$4,725.43 fee should be revoked/repealed and the illegal DPW hold should be removed from the permit/variance to allow closure of the permit/variance and NOV# 201703961.

Dated this 24 of April 2023.


Mihal Emberton



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION
49 South Van Ness Ave, Suite 400
San Francisco, CA 94103-1226

PAYMENT RECEIPT

Printed on: 04/21/2023 03:17:39 PM

Code Enforcement Division

Phone:(628) 652-3430

Payment Date: 04/21/2023

Job Address

201 ASHTON AV -

Receipt Number: CED08006

Issued By: TMOYER

Payment received from:

MIHAL EMBERTON
WELLS FARGO BANK, N.A.
1595 SLOAT BLVD
SAN FRANCISCO CA 94132


Application Number:

201 ASHTON AV -

Payment received for the items indicated:

Fee Description	Payment Amount	Complaint# (if applicable)
CED AAB Filing Fee	\$158.10	201703961

TOTAL \$158.10

BY 

DBI COPY

Property Profile

Assessor: 201 ASHTON AV

Address	Street #	Streetname	Sfx	Unit	Block	Lot #	Address Id	PRIMARY	
	201	ASHTON	AV		6932	008	0	214428	ASSESSOR

Values & Prices

Land	\$0	Other	\$0	Exempt Type	Wk Status/Yr
Structure	\$0	Home Exempt	\$0		2025
Fixtures	\$0	Other Exempt	\$0	Prior/Curr	Base Co/Yr
Prior Price	\$0	Current Price	\$720,000	Source	2013
Prior Sale		Curr Sale	08/17/2012		S

Construction	Appliances	Base Lot	Assr Zone	Appraiser	Lot Chg	Date/Shape	Use Type
D	0000	000	RH1D	611	06/17/1997		D

Lot Frontage/Area/Depth	Units	Stories	Sublevels	Volume	Roll Yr/Status
0 / 566,700 / 0	1	1		41	2024

Rooms	Bedrooms	Baths	Bldg Sq Ft	Bsmt Sq Ft	Year Built	DBI Form Yr	Tax Area
6	3	1	1,400	0	1922	D	1000

Owner Information

Name	Address	City	State	Zip	Owner Date
EMBERTON & RUPPEL FMLY TR	201 ASHTON AVE	SAN FRANCISCO	CA	94112	04/27/2015

HIS Abatement Data Entry

Multiunits | Abatements | Franchise Tax

Complaint

CASE: **DPCD** | B | W | 0 | Complaint Number: **201703961** | NOV Date: **09/11/2017** | Hazard: | Inspectors ID: **6383** | Supervisor Dist:

Dir Hearing Date: **03/07/2023** | Owner Rep.: **Y** | Dir's Dec.: **O** | Dir Decision No: **201703961** | Status: **A**

Aab File: **03/21/2023** | Aab Hrg: | Aab Rehrg: | Aab Decn: | AAB Dec: | Compliance Dline: | Take Off A/L: YES NO

Lifting Order Number: | Status: | Ref to City Att: | Permit Days: | Life_days: | Comp Days: | Legal Bldg Description: | Work Completed: | Reel/Image:

Payments

Receipt from	Letter Sent	Type	Payment Amt	Date Paid	Receipt #	Check No. (numeric only)
MIHAL EMBERTON	04/21/2023	P	158.10	04/21/2023	CED08006	6574804639
	04/12/2023	I	4,725.43			

Comments: | Fee Balance: **4725.43** | **Apply payment**



DEPARTMENT OF BUILDING INSPECTION

City & County of San Francisco

49 South Van Ness Ave, Suite 400 San Francisco, CA 94103-1226

Date: April 12, 2023
Property Address: 201 ASHTON AV

Block: 6932 Lot: 008 Seq.: 00
Inspector: **Gilbert Lam**

Director's Order Number: **201703961 - A**

**INITIAL BILL - Assessment of Costs
Code Violations Outstanding**

To:
EMBERTON & RUPPEL FMLY TR
MIHAL L EMBERTON & RAELYN E
201 ASHTON AVE
SAN FRANCISCO CA 94112

Dear Property Owner(s):

Our records show that all required work has not been completed to abate the code enforcement case referenced above. FAILURE TO CORRECT THESE CODE VIOLATIONS PRIOR TO THE DIRECTOR'S HEARING AND RECORDED ORDER OF ABATEMENT HAS RESULTED IN THE ACCRUAL OF "ASSESSMENT OF COSTS" pursuant to 102.2, 102.16, 102A.3, 102A.7, 103A5, and Section 110, Table 1A-K of the San Francisco Building Code. Said Code requires that this Department's "cost of preparation for and appearance at the hearing, and all prior and subsequent attendant costs shall be assessed upon the property owner. Said violations will not be deemed legally abated until the property owner makes full payment of the assessment..."

The Assessment of Cost AMOUNT accrued to date NOW DUE AND PAYABLE is : **\$4725.43.**

Payment must be payable to CITY and COUNTY of SAN FRANCISCO OR CCSF-DBI in the form of cashier's check, money order or cash and must be accompanied by this original letter.

Please tender payment by mail or in person during regular business hours (8am-4pm) to the address indicated below:

Assessment of Costs Payment
Department of Building Inspection
Code Enforcement Section
49 South Van Ness Avenue, Suite 400
San Francisco, CA 94103

TO AVOID HAVING A LIEN RECORDED UPON YOUR PROPERTY AND LEVIED ON YOUR NEXT PROPERTY TAX BILL, it is necessary for you to tender payment immediately.

Note: The Order of Abatement of the Department of Building Inspection cannot be lifted, and the structure cited above cannot be brought into compliance with the applicable sections of the San Francisco Building and Housing Codes until all required work is completed and further accrued Assessments of Costs are paid.

You must notify your assigned CES Inspector when all violations have been completed AS SOON AS POSSIBLE TO AVOID OR MINIMIZE ADDITIONAL COSTS & PENALTIES.

You will be sent a Final bill assessment of costs for additional time accrued until the case is abated..

Code Enforcement Section can be reached at (628) 652-3430 should you have any questions.

Your prompt cooperation on this matter is appreciated,

Patrick O'Riordan, C.B.O, Director
Department of Building Inspection

By: John Hinchion
Chief of Code Enforcement

cc: CED File



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION
 49 South Van Ness Ave, Suite 400
 San Francisco, CA 94103-1226

London N. Breed, Mayor
 Patrick O'Riordan, C.B.O., Director

Assessment of Costs - Initial

(Pursuant to Sections 102A3 et al, and 110A Tables 1A-D, 1 A-G, 1A-K of the San Francisco Building Code and Ordinance 180-10

Owner EMBERTON & RUPPEL FMLY T
 EMBERTON & RUPPEL FMLY T
 MIHAL L EMBERTON & RAELY
 201 ASHTON AVE
 SAN FRANCISCO CA 94112

Date April 12, 2023
Complaint Number 201703961

Block 6932 **Lot** 008
Address 201 ASHTON AV

Prepared by John Hinchion

Reviewed by S.Bryant

Amount Now Due and Payable \$4,725.43

Comments MMF: (9/11/17 - 3/21/23) 66 Months - covid credit (3/20-7/20) 5 Months = 61 Months. -GL

Payment for the items indicated:

Date	Action	Staff	Time in hrs	Rate	Amount
09/11/17	Issued Notice of Violation and Data entry	Inspector	.75	\$158.10	\$118.58
10/13/17	Case review, Scheduling and Data entry	Inspector	.25	\$158.10	\$39.53
12/14/17	Issued Final Warning Letter	Inspector	.25	\$158.10	\$39.53
03/20/18	Reviewed and approved case for Director's Hearing	Inspector	.75	\$158.10	\$118.58
03/20/18	Researched permit history/status	Inspector	.25	\$158.10	\$39.53
03/20/18	Hearing Appearance and Summary	Inspector	.25	\$158.10	\$39.53
01/31/19	Reviewed and approved case for Director's Hearing	Inspector	.75	\$158.10	\$118.58
02/01/19	Case review, Scheduling and Data entry	Inspector	.25	\$158.10	\$39.53
05/01/19	Case review, Scheduling and Data entry	Inspector	.25	\$158.10	\$39.53
07/01/19	Case review, Scheduling and Data entry	Inspector	.25	\$158.10	\$39.53
09/09/19	Case review, Scheduling and Data entry	Inspector	.25	\$158.10	\$39.53
11/08/19	Case review, Scheduling and Data entry	Inspector	.25	\$158.10	\$39.53
03/25/22	Issued Final Warning Letter	Inspector	.25	\$158.10	\$39.53
04/01/22	Telephone calls/Office visits (Owner/Agent)	Inspector	.25	\$158.10	\$39.53
04/01/22	Case intake and Data entry	Clerical	.5	\$96.72	\$48.36
01/26/23	Reviewed and approved case for Director's Hearing	Inspector	.75	\$158.10	\$118.58
02/08/23	Research Title and Prepare case for Director's Hearing	Clerical	1	\$96.72	\$96.72
02/08/23	Certified Mailing	Clerical	.5	\$96.72	\$48.36
02/15/23	Posted Notice of Director's Hearing	Inspector	.5	\$158.10	\$79.05
02/15/23	Processed photos	Inspector	.25	\$158.10	\$39.53
02/27/23	Researched permit history/status	Inspector	.25	\$158.10	\$39.53
03/08/23	Hearing Appearance and Summary	Inspector	.25	\$158.10	\$39.53
03/08/23	Issued Order of Abatement	Inspector	.25	\$158.10	\$39.53

* Please note that this is only an initial bill. The property owner will accrue additional assessment of costs until all required code abatement is complete and verified by inspector site inspection. The case will not be closed until all code abatement and assessment of costs are paid.



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION
 49 South Van Ness Ave, Suite 400
 San Francisco, CA 94103-1226

London N. Breed, Mayor
 Patrick O'Riordan, C.B.O., Director

Assessment of Costs - Initial

(Pursuant to Sections 102A3 et al, and 110A Tables 1A-D, 1 A-G, 1A-K of the San Francisco Building Code and Ordinance 180-10)

03/08/23	Building Official's Abatement Order (2 hr min.)	Building Official	2	\$173.91	\$347.82
03/21/23	Prepared Assessment of Costs	Inspector	.25	\$158.10	\$39.53
03/21/23	Monthly Violation Monitoring Fee (Ordinance 180-10)	Clerical	30.5	\$96.72	\$2,949.96
04/12/23	Prepared Order of Abatement	Clerical	.5	\$96.72	\$48.36
*Total to Date					\$4,725.43

*** Please note that this is only an initial bill. The property owner will accrue additional assessment of costs until all required code abatement is complete and verified by inspector site inspection. The case will not be closed until all code abatement and assessment of costs are paid.**

Permit Tracking System

Projects Location Stage Characteristics Routing/Addenda Fees Payments Owner/Contractor/Agents Planning Dev Impact Fee

LOCATION 6932 / 008 / 0 201 ASHTON AV [ALTERATIONS PERMIT]

State Created By

List based on the address query

Application no.	Form No.	Floor Number	Description	Site Prmt ?	Unit	Sfx	Unit	Sfx	Current Stage	Stage Date
201710110923	8		TO COMPLY WITH NOV 2017			AV			FILED	10/11/2017
201209048871	8		REWIRE ELECTRICAL PANEL,			AV			EXPIRED	02/02/2018
200910199223	8		REROOFING			AV			ISSUED	10/19/2009
9803366	8		REPLACE MUDSILL STOTS/JC			AV			COMPLETE	06/23/1998
9500302	8		INSTALL KITCHEN CABINETS			AV			COMPLETE	04/26/1995

Return

Estimated Hours: _____ Plan Review Fee: _____

PREMIUM PLANCHECK MRRP Compliance (Green Halo) Bluebeam Project ID _____

FIRST YEAR FREE BAN (Business Account No.) _____ LIN (Location Identification No.) _____

**ABATEMENT APPEALS BOARD**

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

NOTICE OF AAB HEARING

5/28/2024

Mihal Emberton
201 Ashton Avenue
San Francisco, CA 94112

Re: 201 Ashton Ave. – NOV# 201703961 AAB Appeal No. 6925

Dear Parties:

On April 21, 2023, the Abatement Appeals Board (AAB) received Appellant, Mihal Emberton completed appeal form, appealing Director's Order No. 201703961-A.

This matter has been scheduled for hearing before the AAB on **July 17, 2024, at 9:30AM Wednesday, in Room 416, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA.**

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

Under Procedural Rule III.D, the Appellant may submit a written statement setting forth their arguments and evidence in support of the appeal. The written statement must be submitted to the AAB Secretary by email: dbi.aab@sfgov.org or in hardcopy no later than **(June 26, 2024 - 21 days before the hearing date)**. Please consult the AAB's Procedural Rules for more detailed information about the written statement.

The Department of Building Inspection must submit its report setting forth the procedural history and basis for the Order of Abatement and any assessment of costs by **(July 10, 2024 - 7 days before the hearing date)**.

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

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

Very truly yours,

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

Matthew Greene
Secretary,
Abatement Appeals Board

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

Inspector: CONTINUED HEARING/CES

Please POST AND RETURN DECLARATION TO AAB SECRETARY.

DEPARTMENT OF BUILDING INSPECTION
San Francisco, California

DECLARATION OF POSTING OF ABATEMENT APPEALS BOARD

NOTICE OF HEARING

I, JOE PENIA declare that I am employed by the City and County of San Francisco and at all times herein mentioned was over the age of 18 years; that pursuant to the provisions of Section (105A.2.6) of the San Francisco (Building) Code, I did on the 28 day of JUNE, 2024, post a copy of Notice of Hearing of the Abatement Appeals Board, in a conspicuous place on the building, structure or part thereof described in said complaint, to wit:

Appeal No. 6925
Complaint No. 201703961
Order of Abatement No. 201703961-A
201 ASHTON AV
San Francisco, California

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 06/28/2024 at San Francisco, California.

Joe Penia
CONTINUED HEARING

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\$ **Total Po: 201 ASHTON AVE**

\$ **Sent To: SAN FRANCISCO, CA 94112**

Street or City, State: **CES-CNOH: Reg 201 ASHTON AV 201703961**

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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\$ **MIHAL EMBERTON**

\$ **Total 201 ASHTON AVE**

\$ **Sent SAN FRANCISCO, CA 94112**

Street or City, State: **CES-CNOH: Reg 201 ASHTON AV 201703961**

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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\$ **Sent SAN FRANCISCO, CA 94112**

Street or City, State, ZIP+4®: **hb:CNOH AAB 201 ASHTON AV 201703961**

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



DEPARTMENT OF BUILDING INSPECTION

Inspection Services
City and County of San Francisco
49 South Van Ness Ave, Suite 400 San Francisco, CA 94103-1

DATE: 12/14/2017

PROPERTY ADDRESS:
201 ASHTON AV

BLOCK: 6932 LOT: 008

Building Complaint #: 201703961

EMBERTON & RUPPEL FMLY TR
EMBERTON & RUPPEL FMLY TR
MIHAL L EMBERTON & RAELYN E
201 ASHTON AVE
SAN FRANCISCO CA 94112

NOTICE OF VIOLATION FINAL WARNING

Dear Property Owner(s):

NOTICE OF VIOLATION OUTSTANDING:

On 09/11/2017 your property was inspected and/or a Notice of Violation was issued informing you of required code abatement, and warnings for failure to comply. The time period to correct all cited code violations indicated in this Notice has passed, and the Department records indicate that the required code abatement work remains outstanding. Your case has been referred to the Code Enforcement Division for enforcement.

ASSESSMENT OF COSTS NOW IMPOSED:

Therefore, pursuant to Section 102A.3 of the San Francisco Building Code you will be assessed costs arising from department time accrued pertaining but not limited to: (1) site inspections and reinspections, (2) case management, update, and data entry, (3) case inquiries (meetings, office visits, phone calls, emails, response to correspondence etc), (4) permit history research, (5) notice/hearing preparation, (6) staff appearances/reports at hearings, (7) case referrals, and (8) monthly violation monitoring.

AVOID FURTHER ASSESSMENT:

To keep the assessment of costs at a minimum, and avoid the accrual of further time spent on the actions above such as administrative hearing preparation, and monthly violation monitoring, etc., please complete all work within thirty (30) days. Contact the Code Enforcement Division at (628) 652-3430 if you have questions concerning the referenced Notice of Violation.

IF PERMITS ARE REQUIRED:

Please note that you must also obtain all necessary building, plumbing, and/or electrical permits. Obtain final sign-off from the Building Inspector on the building job card and sign-offs from the Plumbing or Electrical Inspectors for the plumbing permit or for the electrical permit. Otherwise, the work will be deemed incomplete.

CASE WILL BE CLOSED WHEN ALL WORK & ASSESSMENT OF COSTS PAID:

This case will not be closed and assessment of costs will continue to accrue until (1) all required work is completed as verified by site inspections, (2) final sign-offs are obtained for all required permits, and (3) all assessment of costs are paid.

City and County of San Francisco



London Breed
Mayor

Board of Appeals

Julie Rosenberg
Executive Director

AFFIDAVIT OF SERVICE

Mihal Emberton, Appellant(s)
201 Ashton Avenue
San Francisco, CA 94112

I, Alec Longaway, Legal Assistant for the Board of Appeals, hereby certify that on this 9th day of July 2024, I served the attached Notice of Decision for Appeal No. 23-067, Emberton vs. San Francisco Public Works, Bureau of Street Use & Mapping, subject property at 201 Ashton Avenue, on the appellant(s) via email to: mihal.emberton@gmail.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in San Francisco, California.

July 9, 2024

Date


Alec Longaway

cc:

OTHER PARTIES
OR CONCERNED CITIZENS:

San Francisco Public Works, Bureau of Street Use & Mapping
c/o Nicolas Huff, Bureau Manager, and Javier Rivera, Construction Permits Supervisor
49 South Van Ness Avenue, Suite 1600
San Francisco, CA 94103
nicolas.huff@sfdpw.org
javier.rivera@sfdpw.org



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

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
MIHAL EMBERTON,)
)
 Appellant(s))
)
 vs.)
)
SAN FRANCISCO PUBLIC WORKS,)
BUREAU OF STREET USE & MAPPING (SFPW-BSM),)
 Respondent)

Appeal No. **23-067**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on December 12, 2023, 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 December 1, 2023, to Mihal Emberton, of a Public Works Order (DENIAL of an application for a Minor Sidewalk Encroachment Permit. All items encroaching the public right-of-way shall be deconstructed and removed from the public right-of-way. The applicant did not provide updated plans with the following conditions and alterations: reduction of the fence height to three feet; three feet of clearance around the streetlight pole and box on Holloway Ave.; three feet path of travel between the trees and fence on Holloway Avenue and the removal of the approximate 10 ft x 10 ft cedar pergola and the propane fire table. The plans also need to show all features in the right-of-way such as the streetlight and box, trees, location of pavers, location of landscaping, and the altered location of the fences). Subject property: 201 Ashton Avenue.

APPLICATION NO. 21MSE-00688

FOR HEARING ON June 26, 2024

Address of Appellant(s):

Address of Other Parties:

Mihal Emberton, Appellant(s) 201 Ashton Avenue San Francisco, CA 94112	N/A
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NOTICE OF DECISION & ORDER

The hearing on the aforementioned-matter came before the Board of Appeals of the City & County of San Francisco on June 26, 2024.

PURSUANT TO § 4.106 of the Charter of the City & County of San Francisco and Article 1, §14 of the Business & Tax Regulations Code of the said City & County, and the action above stated, the Board of Appeals hereby **GRANTS THE APPEAL AND ORDERS** that the DENIAL of the Minor Sidewalk Encroachment Permit is OVERRULED, and SFPW-BSM is hereby directed and ordered to reinstate review of the permit on the CONDITION that it be revised to incorporate the conditions and requirements set forth in the brief from Public Works, dated June 13, 2024 (attached), which was submitted for the hearing, with the following modification: the pergola can remain in place subject to the Planning Department's consideration of the Variance application for the pergola. This order was made on the basis that Public Works' recommendations are consistent with the Code and Public Works' traditional behavior in similar matters.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO

Last Day to Request Rehearing: July 8, 2024
Rehearing Request: None.
Rehearing: None.
Notice Released: July 9, 2024

Jose Lopez, President

Julie Rosenberg, Executive Director

If this decision is subject to review under Code of Civil Procedure § 1094.5, then the time within which judicial review must be sought is governed by California Code of Civil Procedure, §1094.6.



Nicolas Huff, PE, Bureau Manager | Bureau of Street-Use & Mapping
nicolas.huff@sfdpw.org | T. 628.271.2000 | 49 South Van Ness Ave, 3rd Floor, San Francisco, CA 94103

June 13, 2024

President Jose Lopez
Vice President Alex Lemberg
Commissioner Rick Swig
Commissioner John Trasviña
Commissioner J.R. Eppler

RE: Appeal No. 23-067 for Minor Sidewalk Encroachment Permit application 21MSE-00688 (201 Ashton Ave.)

Dear Members of the Board of Appeals:

San Francisco Public Works submits this brief in response to the request from the Board, at the hearing of May 15, 2024, to determine which encroaching items Public Works would allow under a Minor Sidewalk Encroachment permit.

Encroachments:

After internal review and consultation with sister agencies, Public Works has determined the following for the encroaching items:

Items that may remain:

1. Landscaping and pavers may remain in place as-is.
2. Fence
 - a. After consulting with the Planning Department, BSM will grant a variance to the 3 foot height limitation so the fence may remain in place with a height no greater than 4 feet.
 - b. The fence must be modified to provide a minimum clearance of 3 feet in all directions around the base of the streetlight along Holloway Ave. This can be accomplished by creating a cut out around the pole, by adding an unlocked sliding gate, or adding a swinging gate that swings towards the property. If the fence is not modified, the permit will be conditioned such that the fence may be removed, without prior notice and at the owner's expense, to provide access to the streetlight.

London N. Breed, Mayor | Carla Short, Director | sfpublicworks.org | [@sfpublicworks](https://twitter.com/sfpublicworks)

- c. Plans will need to confirm that there is a minimum of a 3-foot clear path of travel between the fence along Holloway Ave. and the tree wells.

Items to be removed:

1. The cedar pergola must be removed. After consulting with the Planning Department, it was determined that the property does not qualify to allow a standalone structure in the front yard. Furthermore, Public Works does not allow private structures in the right-of-way.
2. The fire table and associated gas piping must be removed. There are safety and liability concerns with having a gas line fire in the right-of-way. Further, encroachment permits are non-exclusive permits that cannot allow private elements in the public right-of-way for private or personal gain.

Next steps:

Updated plans reflecting the items listed above shall be submitted to Public Works within 90 days of the Board of Appeals decision. Furthermore, the plans shall show the location of the property line as determined by the private land surveyor contracted by the applicant.