BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of	Appeal No. 24-037
WILLIAM CHAN and LYDIA LEE,	• •
Appellant(s)	
)	
VS.)	
)	
DEPARTMENT OF BUILDING INSPECTION,	
PLANNING DEPARTMENT APPROVAL Respondent	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on June 10, 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 May 24, 2024 to Adrian Lavitoria, of an Alteration Permit (revision to Permit Application No. 202403087403; upgrade rear framing and foundation of one-story rear popout structure, capture existing framing condition exposed during construction; revised scope of work 5/16/24-add infill crawl space exterior walls (3 sides at rear)) at 108 Congdon Street.

APPLICATION NO. 2024/05/07/1613

FOR HEARING ON July 10, 2024

Address of Appellant(s):	Address of Other Parties:
William Chan and Lydia Lee, Appellant(s)	Adrian Lavitoria, Permit Holder(s) c/o Alex Santos, Agent for Permit Holder(s) Altos Engineering 1865 Golden Gate Avenue # 2 San Francisco, CA 94115

City and County of San Francisco



London Breed Mayor

Board of Appeals

Julie Rosenberg Executive Director

June 10, 2024

Adrian Lavitoria, Permit Holder(s) c/o Alex Santos, Agent for Permit Holder(s) Altos Engineering 1865 Golden Gate Avenue # 2 San Francisco, CA 94115 alex@altosengineer.com

Appeal No.: 24-037

Appeal Title: Chan vs. DBI, PDA
Subject Property: 108 Congdon Street
Permit Type: Alteration Permit
Permit No.: 2024/05/07/1613

Dear Alex Santos:

This is to notify you that an appeal has been filed with this office protesting the **ISSUANCE** of the above-referenced permit. Pursuant to Article I, §8 of the San Francisco Business & Tax Regulations Code, the permit is hereby **SUSPENDED** until the Board of Appeals decides this matter and releases a notice of decision and order.

We are enclosing a copy of the Preliminary Statement of Appeal for your information.

The hearing regarding this matter has been scheduled for July 10, 2024, at 5:00 p.m., and will be held in Room 416 of San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place. The parties may also attend remotely via the Zoom video platform.

If you have any further questions, you may email this office at boardofappeals@sfgov.org or call (628) 652-1150.

Sincerely,

BOARD STAFF

cc: Department of Building Inspection c/o Matthew Greene, Deputy Director of Inspection Services matthew.greene@sfgov.org

William Chan and Lydia Lee, Appellant(s)





Date Filed: June 10, 2024

CITY & COUNTY OF SAN FRANCISCO BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 24-037

I / We, William Chan and Lydia Lee, hereby appeal the following departmental action: ISSUANCE of Alteration Permit No. 2024/05/07/1613 by the Department of Building Inspection which was issued or became effective on: May 24, 2024, to: Adrian Lavitoria, for the property located at: 108 Congdon Street.

BRIEFING SCHEDULE:

Appellants' Brief is due on or before: 4:30 p.m. on **June 20, 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, corey.teague@sfgov.org, tina.tam@sfgov.org, kevin.birmingham@sfgov.org, <a href="mailto:mai

The Respondent and Department's briefs are due on or before: 4:30 p.m. on **Tuesday**, **July 2**, **2024**, **(note, this is two days earlier than the Board's regular briefing schedule due to the 4th of July holiday)**. 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, ecorey.teague@sfgov.org, tina.tam@sfgov.org, kevin.birmingham@sfgov.org, matthew.greene@sfgov.org and

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

Hearing Date: Wednesday, July 10, 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 Tuesday July 2, 2024 by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

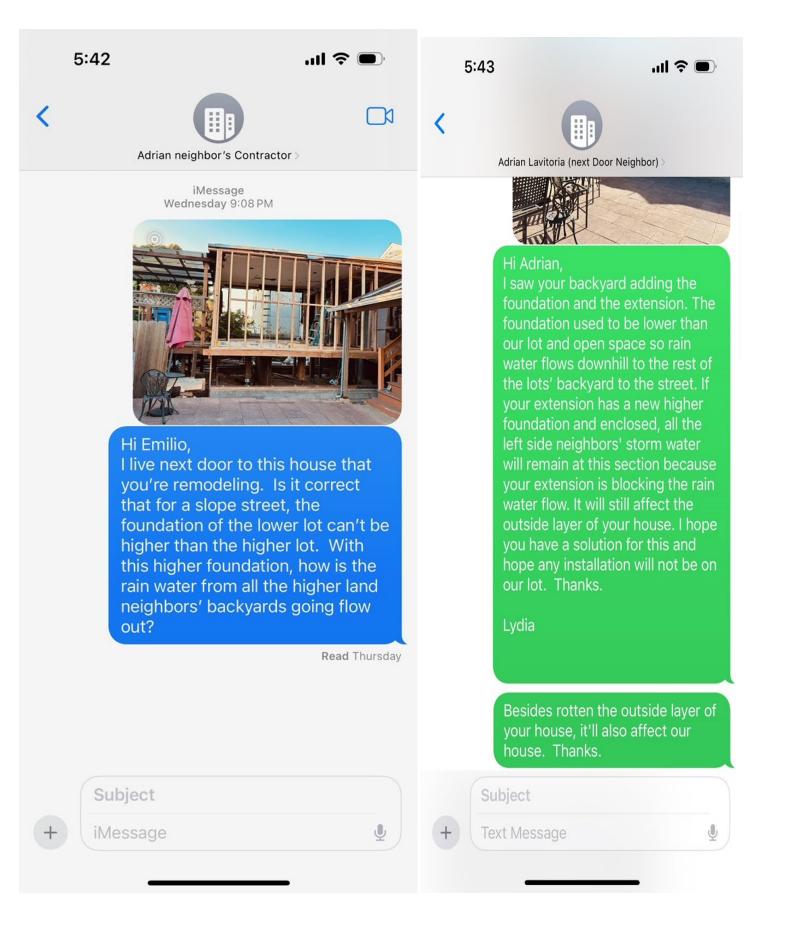
Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website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

The reasons for this appeal are as follows: See attachment to the Preliminary Statement of Appeal

Appellant or Agent:

Signature: William Chan, appellant (via email)

I was out of town and just received this notice. With the structural addition to 108 Congdon, we realized the new structural is built and been added about 18 inches higher than previous foundation which will block rain water from left side neighbors' backyard and trap them to this lowest section of both lots and will affect/flood my house during a storm. It was used to be open space where rain water was able to flow out. My wife had addressed to the owner (see text) on 6/5 and 6/6 but he said he is out of town.



Permit Details Report

Report Date: 6/10/2024 7:24:51 AM

Application Number: 202405071613

Form Number: 8

Address(es): 5870 / 004 / 0 108 CONGDON ST

REV 202403087403- UPGRADE REAR FRAMING AND FOUNDATION OF 1-STORY REAR POPOUT STRUCTURE CAPTURE (E) FRAMING CONDITION EXPOSED DURING CONSTRUCTION REVISED SCOPE OF WORK 5/16/24-ADD INFILL

CRAWL SPACE EXTERIOR WALLS (3 SIDES AT REAR)

Cost: \$49,000.00

Occupancy Code: R-3

Building Use: 27 - 1 FAMILY DWELLING

Disposition / Stage:

Description:

Action Date	Stage	Comments
5/7/2024	TRIAGE	
5/7/2024	FILING	
5/7/2024	FILED	
5/24/2024	APPROVED	
5/24/2024	ISSUED	

Contact Details:

Contractor Details:

License Number: 1071085

Name: JESSICA ATAL NEMEROVSKI AT

Company Name: HARMONY DESIGN & DEVELOPMENT INC Address: 80 EUREKA SQUARE * PACIFICA CA 94044-0000

Phone:

Addenda Details:

Description:

Station	Rev#	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Review Result	Hold Description
INTAKE		5/7/24	5/7/24			5/7/24	MASOUD HAMIDI	Administrative	
INTAKE		5/16/24	5/16/24			5/16/24	MASOUD HAMIDI	Administrative	5/16/24: REINTAKE (12) NEW PLAN SHEETS.MH
CP-ZOC		5/16/24	5/16/24			5/16/24	OROPEZA EDGAR	Approved	Approved for - REV 202403087403- UPGRADE REAR FRAMING AND FOUNDATION OF 1-STORY REAR POPOUT STRUCTURE CAPTURE (E) FRAMING CONDITION EXPOSED DURING CONSTRUCTION REVISED SCOPE OF WORK 5/16/24- ADD INFILL CRAWL SPACE EXTERIOR WALLS (3 SIDES AT REAR) Legitmizing the rear deck and overhang. Notice is not triggered per section 311 of the planning code.
BLDG		5/13/24	5/13/24			5/13/24	LIU STEPHEN	Issued Comments	Enclosing space in the rear would be considered a horizontal addition; require planning dept review
BLDG	1	5/16/24	5/16/24			5/16/24	HU QI (ANNE)	Approved	
МЕСН		5/16/24	5/16/24			5/16/24	TAN (PETER) JIA JIAN	Approved	
СРВ			5/24/24				SAPHONIA COLLINS	Administrative	

This permit has been issued. For information pertaining to this permit, please call 628-652-3450.

Appointments:

Appointment Appointment Date AM/PM Appointment Code	Appointment Type	Description Time Slots
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Inspections:

Activity Date Inspector Inspection Description Inspection Status

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
0				CONCRETE (PLACEMENT & SAMPLING)	placement
0			0	BOLTS INSTALLED IN CONCRETE	
0			24E	WOOD FRAMING	
0			19	SHEAR WALLS AND FLOOR SYSTEMS USED AS SHEAR DIAPHRAGMS	
0			24A	FOUNDATIONS	
0			4	REINFORCING STEEL AND PRETRESSING TENDONS	reinforcing steel

For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

Station Code Descriptions and Phone Numbers

Online Permit and Complaint Tracking home page.

Technical Support for Online Services

If you need help or have a question about this service, please visit our FAQ area.

Contact SFGov Accessibility Policies
City and County of San Francisco © 2024

BRIEF SUBMITTED BY THE APPELLANT(S)

Subject: Appellants' Brief - Appeal #24-037 Regarding Structural Addition to 108 Congdon Street I am writing to formally appeal the recent structural addition to the property located at 108 Congdon Street. Upon inspecting the new construction, it has come to my attention that the addition has built an approximately 18 inches foundation and the exterior walls. This significant elevation change poses several concerns that I believe warrant immediate attention and reconsideration.

The primary issue with this new construction is its impact on rainwater drainage between the properties. Previously, the area where the addition has been constructed was an open space that allowed rainwater to flow freely, effectively preventing water from accumulating and ensuring that it drained away from both properties. With the current elevation of the new addition, this natural drainage path has been obstructed, creating a potential barrier that could have serious consequences.

The new structure's height will likely block rainwater from flowing out, causing water to accumulate in this now confined area. This situation is of particular concern during heavy storms, as it could result in water being trapped in the lowest section of both lots, posing a significant flooding risk to my property. Flooding threatens the structural integrity of my home and poses a potential health and safety risk, including soil erosion, foundation damage, increased likelihood of mold growth, and health issues.

Given these potential impacts, I respectfully request that the Appeal Review Board re-evaluate the recent structural addition to 108 Congdon Street. I urge the Board to consider measures to mitigate the drainage issues caused by the horizontal addition that's adding the foundation and adding infill crawl space exterior walls.

Thank you for your time and consideration,

William Chan and Lydia Lee

Concerns and Impacts

- 1. Elevation Change and Drainage Impact:
 - The elevation change from the new construction obstructs the natural flow of rainwater.

 Historically, the area where the new addition stands has an open space that allowed rainwater to flow freely, preventing accumulation and ensuring proper drainage away from both properties. (see Exhibit C)
 - The new structure's height blocks rainwater from flowing out, causing storm water to accumulate in the confined area. During heavy storms, this could lead to water being trapped in the lowest section of my lot, posing significant flooding risk to my property. (see Exhibit D, Exhibit E)
 - Flooding threatens the structural integrity of our home and poses potential health and safety risks, including soil erosion, foundation damage, and increased likelihood of mold growth. (Exhibit D, Exhibit E)

2. Historical Context and Existing Conditions:

- Both houses, 108 and was built in 1908 and was built in 1915. They feature triangular gable roofs with a gutter system that directs rainwater from the half-side roofs to a pipe ending in 108 Congdon's sewer/storm water system. (see Exhibit F)
- Historically, rainwater from both half-side roofs has flowed into the gutter system
 without issues, directed to the sewer/storm system at 108 Congdon. This system is

lacks alternative water routing options due to its upper lot location and front-located sewer system. (see Exhibit F, Exhibit H and Exhibit G)

Events and Actions Taken:

1. Initial Observations and Communication:

- Upon returning from out of town and inspecting the new construction, we realized the new foundation was about 18 inches high. This elevation blocks rainwater from flowing from the left-side neighbors' backyard, potentially causing flooding in our house during storms. (See Exhibit I and Exhibit H)
- We addressed this issue with Adrian's contractor on June 5, and with Adrain on June 6. Despite our communications, construction continued without resolving the issue. (See Exhibit A and Exhibit I)

2. Historical Water Flow:

- Historically, the bottom part of the extension area featured a significant crawl space allowing rainwater to flow through the wooden fence and downhill. (see Exhibit C)
- The new foundation obstructs this historical flow, creating a potential barrier for rainwater. (see Exhibit D)

Request for Action

1. Immediate Remediation:

• Given the potential impacts, we request the Appeal Review Board re-evaluate the recent structural addition to 108 Congdon Street for adding the foundation and exterior wall at

the crawl space. Measures should be taken to mitigate the drainage issues caused by the

elevation change.

• Remove the foundation and the exterior walls to restore the natural flow of rainwater

and to prevent water accumulation and flooding to my lot.

2. Evidence and Continuous Issues:

• During the storm on December 26, 2023, rainwater from the upper lots caused soil

erosion, emphasizing the need for a proper drainage solution. (see Exhibit H)

• Despite our texts on June 5th and June 6th, and the Suspension Notice on June 10th,

construction continues and exterior walls were installed, exacerbating the problem. (see

Exhibit A, Exhibit I, Exhibit J)

Conclusion

We request the removal of the foundation and prohibition of any infill crawl space exterior walls or

structures that could affect the natural flow of stormwater. These changes are crucial to prevent storm

water being trapped and flood to my lower section of the lot, and associated damages, mold, and health

issues. (see Exhibit E) This request aims to avoid potential liability for 108 Congdon due to the

extension.

Thank you for your attention to this matter.

Sincerely,

William Chan and Lydia Lee

Exhibit A

Text to Adrian's contractor, Emilio on 6/5/2024

5:42 ııll 🗢 🔳 < Adrian neighbor's Contractor iMessage Wednesday 9:08 PM I live next door to this house that you're remodeling. Is it correct that for a slope street, the foundation of the lower lot can't be higher than the higher lot. With this higher foundation, how is the rain water from all the higher land neighbors' backyards going flow Read Thursday Subject iMessage

Text to Adrian on 6/6/2024

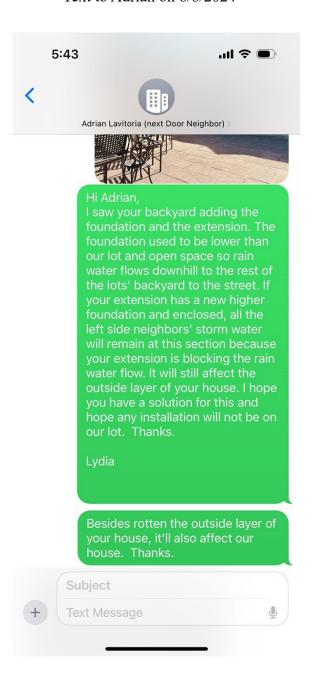


Exhibit B

Front of the houses show slope hill





Back of my lot

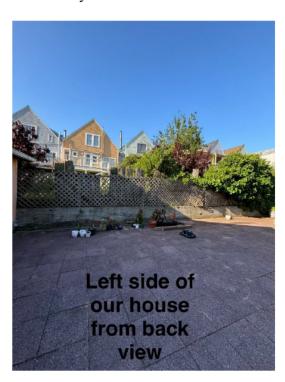


Exhibit C

OLD extension:

Big open crawl space that allows rainwater from the hill flows through the wooden fence. Picture taken on May 2, 2020.



Monday · May 27, 2024 · 8:02 PM ☑ IMG_0134









Exhibit D

NEW Extension:

Adrian built a new higher than ground level foundation that blocks rainwater flows.

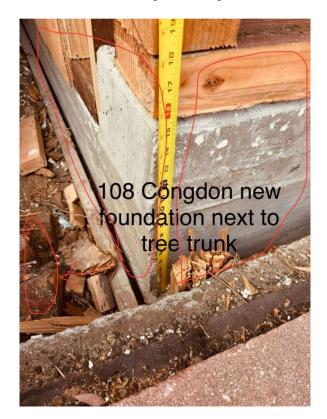






Exhibit E

Due to the new concrete foundation, rainwater will be trapped in this section. Historically, there was no issue with rain flow on my lot.











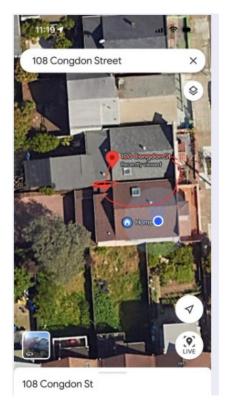






Exhibit F

Historically, rainwater from both half-side triangular gable roofs has flowed into the gutter system without issues, directed to the sewer/storm system at 108 Congdon. 108 Congdon was built in 1900 and was built in 1915. This system is crucial as lacks alternative water routing options due to its upper lot location on a hill and front-located sewer system.









's sewer/storm sewer system that goes directly to the street main sewer system.

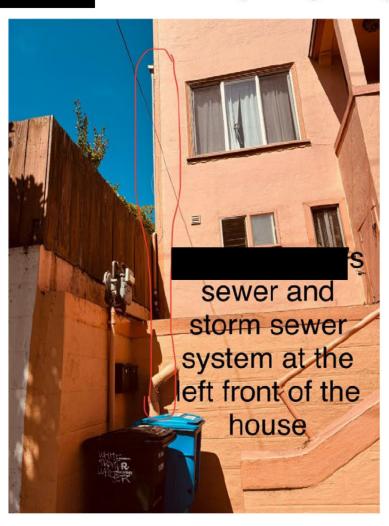


Exhibit H

Storm on December 26, 2023, rainwater from the upper lots caused soil erosion, emphasizing the need for a proper drainage solution. The foundation and exterior walls need to be removed so storm water can continue to flow downhill.

Tuesday · Dec 26, 2023 · 1:14 PM IMG_2486





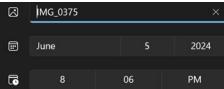




Exhibit I

I saw the foundation was built and I texted Adrian's contractor on 6/5.







Thursday · Jun 6, 2024 · 7:31 PM IMG_0473

Exhibit J

Despite Board of Appeal's Suspension Notice to Alex Santos and Adrian Lavitoria on June 10, 2024, construction continued and these were built after the Suspension Notice. This situation is very concerning.



Sunday · Jun 9, 2024 · 5:06 PM ☑ IMG_0572

Wall was built on 6/12



Wednesday · Jun 12, 2024 · 11:00 AM

✓ View recent photos

More walls were built on 6/13



Thursday · Jun 13, 2024 · 7:07 AM IMG_0662

Concrete on 6/19



Wednesday · Jun 19, 2024 · 6:16 PM ☑ IMG_0880

Concrete on 6/19



Wednesday · Jun 19, 2024 · 6:17 PM ☑ IMG_0881

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

June 22, 2024

Adrian Lavitoria & Family 108 Congdon Street San Francisco, CA 94112

San Francisco Board of Appeals 49 South Van Ness Ave, Suite 1475 San Francisco, CA 94103

Reference: BOA Appeal No. 24-037

President Lopez, Vice President Lemberg and BOA Commissioners,

I am writing this letter today at the request of Harmony Design & Development to express my thoughts of the situation.

My wife and I come from a long line of hard workers, determined to provide a place to call home for our family. Our family immigrated here from the Philippines to establish a better life. They were resilient – working in jobs here in the city that did not pay extravagant. But through determination, they were able to purchase their homes here in the City. Hard work varies to different people. Both my parents worked two jobs to provide for me and my siblings to attend catholic school (OLM and Riordan). My wife's grandfather fought in World War 2 and was able to gain citizenship, purchasing a home in the Mission/Bernal Heights area. These are examples of how hard working they were and are to ensure a livelihood for their families.

According to the Assessor-Recorder Secured Rolls, my home was built in the year 1900, surviving the 1906 Earthquake and Fires. I purchased my home in 2015 with the intent to raise my family in the city I was born in. That feat was easier said than done due to how expensive the high cost of living in San Francisco. I knew that purchasing a fixer upper was my only option if I wanted to stay in the city that my family has established themselves in. I worked tirelessly at the SF Sheriff's Office and utilized the

First Responder Down Payment Assistance Program. I truly feel that the City and County has given me and my wife, who also works as a Health Program Coordinator at DPH, so much opportunity to allow me and my family to settle here, just as my relatives before me.

In 2020, my oldest son, Matias, was born and in 2022, my second son, Ruben was born. I knew that despite having a home, there were flagrant issues with the old building that needed to be addressed. We contacted Harmony Design and Development to fix our home with the mindset that all the repairs and updates were to allow my family- my two sons- to have a home that was safe.

We explained to Jessica, Daniel, and Eli that despite our limited budget, we needed help in making sure our home was updated and safe. They were more than eager to help my family in our cause.

Unfortunately, in September of 2023, my wife was diagnosed with breast cancer and is currently in treatment. Harmony Design and Development has been pivotal in the planning phases and making sure that our project would be as efficient as possible so that my family and I can return to an updated and safe house. With the news of my wife's cancer diagnosis and treatment, they were more motivated to finishing the project despite the unforeseen issues that waited behind our walls and floors.

This project became more important for us as a family. This is definitely going to be our forever home. The home prior to renovations had structural issues that needed to be addressed- creating sheer walls for earthquake proofing, reinforcement of support beams, and the updating and rebuilding the foundation of the back room which was being supported by untreated and water-damaged wood materials.

Harmony has been great in the construction and coordination so far. They have utilized specialized inspectors, licensed engineers, and made sure that all the work done is up to code, permitted, and will

be safe for my family moving forward. They have been awesome maintaining contact with my family, as well as making sure that everything was approved by the City departments and inspectors.

The Appellants argument that runoff from their property must drain into my property is crazy and selfish, considering Harmony only placed new, elevated foundation below the back room. There is still approximately 15 feet for water to drain from the back of the property lot. It should be noted that The Appellants back yard is fully covered, limiting rainwater from seeping into the ground.

Text messages from Mrs. Lee on Thursday, June 6th revealed that their property at "does not have a ground sewage pipe at their lowest area". I explained to her that I would talk to my project manager about their concerns and also suggested that she talk to our contractor about the concerns. She even thanked me for seeking a solution. I advised her also of the CA Plumbing Code 1101.2.1 regarding leaders, connection to drains. The code specifies that "Such drainage shall not be directed to flow onto adjacent property or over public way including sidewalks." She continued to shift the responsibility towards me, implying that I should expand my drainage to accommodate theirs.

It may be safe to say to that due to our neighbor's lack of proper drainage and allowing runoff to drain into my property, the damage which originally resulted in the sagging and issues discovered during construction can be due to the negligence of the Appellants.

I ask that the board deny the appeal due to the permit being properly issued and the Appellants' arguments to the contrary are without merit. This delay has now brought an unnecessary amount of stress to my family, especially my wife. Our son starts school in August at St. John's School in Glen Park. We will now have to coordinate drop offs and added stress since we will have to commute from

the Sunset District to Glen Park versus if our project were to be completed, the commute is a 5–10-minute drive from 108 Congdon Street.

Additionally, this appeal has now brought a wedge between what I thought was a good relationship with Mr. Chan and Ms. Lee. I understand their concerns, but attempting to shift liability for their lack of drainage as well as not properly communicating and instead delaying the project is saddening. It also brings to question of whether they are responsible now for the over-time damage due to excess runoff and lack of proper drainage that they themselves admitted in their brief. I am open to having conversations moving forward but will not entertain their selfishness or self-preservation.

I work hard to do things correctly and within the laws and regulations. I fear that the delays will now add more time to the project and additional fees and costs associated- resulting in a larger financial burden. We are blue collar workers who do not have enormous amounts of resources at our disposal.

Life does wonders but hopefully the Board takes my words into consideration. Life never goes as planned. Financial burdens of this construction delay, on top of providing for my family, especially during my wife's treatment, and trying to stay afloat in the City is hard. Hopefully the Board sees through the baseless and selfish claims and allows our project to continue.

If the concerns for flooding are true for the Appellants, then they as property owners should address it by contacting general contractors who will provide permitted work, just like Harmony Design & Development. As I am investing in my home, so should they.

San Francisco is an expensive place to live and all involved are at the will of old buildings and the landscape. I have complete trust in Harmony Design and Development to continue to conduct

construction that is up to code and permitted by the SF Department of Building Inspection & SF Planning. I will always ensure that any work done to our property will be done right and at the direction of the City's established codes.

EXHIBIT A: Existing Photo of Crawl Space Foundation Supports – PRIOR TO CONSTRUCTION



The rear structure that has been strengthened with a new foundation was originally only supported by structural posts sitting on inadequate foundation piers with minimal floor framing. Dry-rot was extensive and there was evidence of structural failure. All these structural elements were significantly deteriorating prior to construction due to the exposed conditions to weather as well as water draining from both the neighbor's and their own rear yard.

The only way to protect this structure and it's inhabitants was to reframe and pour a new perimeter foundation.

EXHIBIT A: Existing Photo of Crawl Space Foundation Supports – PRIOR TO CONSTRUCTION





EXHIBIT B: Current Photo of Strengthened Crawl Space Foundations

The rear structure is now protected from any site water collected from both yards. The structure is now stabilized with legitimate, code-compliant framing and foundation support.





