BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
KIERAN MAHER,)
Appellant(s))
)
vs.)
)
DEPARTMENT OF BUILDING INSPECTION,)
Respondent

Appeal No. **22-076**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on October 20, 2022, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on October 5, 2022 to Thomas Monahan, of an Alteration Permit (add structural beam and structural piers; replace existing wood column and piers; replace existing slab and reinforce foundation) at 146 23rd Avenue.

APPLICATION NO. 2022/09/13/2353

FOR HEARING ON December 14, 2022

Address of Appellant(s):	Address of Other Parties:
Kieran Maher, Appellant(s) c/o Scott Emblidge, Attorney for Appellant(s) Moscone Emblidge & Otis LLP 220 Montgomery Street #2100 San Francisco, CA 94104	Thomas Monahan, Permit Holder(s) 146 23rd Avenue San Francisco, CA 94121

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
KIERAN MAHER,)
Appellant(s))
)
vs.)
)
DEPARTMENT OF BUILDING INSPECTION,)
Respondent

Appeal No. **22-077**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on November 3, 2022, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on October 31, 2022 to Thomas Monahan, of an Alteration Permit (Structural upgrade to beam, add structural piers, replace wood columns and piers, replace existing slab, reinforce the foundation, minor plumbing and electrical work associated; excavation of two feet for additional head height in a middle section to comply with Complaint No. 202296964) at 146 23rd Avenue.

APPLICATION NO. 2022/10/28/5449

FOR HEARING ON December 14, 2022

Address of Appellant(s):	Address of Other Parties:
Kieran Maher, Appellant(s) c/o Scott Emblidge, Attorney for Appellant(s) Moscone Emblidge & Otis LLP 220 Montgomery Street #2100 San Francisco, CA 94104	Thomas Monahan, Permit Holder(s) 146 23rd Avenue San Francisco, CA 94121

Date Filed: October 20, 2022

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 22-076

I / We, **Kieran Maher**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2022/09/13/2353** by the **Department of Building Inspection** which was issued or became effective on: **October 5, 2022**, to: **Thomas Monahan,** for the property located at: **146 23rd Avenue**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **November 10, 2022**, **(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 tmm@monahanpacific.com.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **November 22, 2022**, **(this is 2 days earlier than the Board's regular briefing schedule due to the Thanksgiving 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 and Kieran.d.maher@gmail.com.

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

Hearing Date: **Wednesday, November 30, 2022, 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, November 22, 2022 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 filed appeal by email.

Print Name:_____

Hello Board of Appeals,

We would like to formally appeal the construction permit at 146 23rd Avenue San Francisco, CA 94121. The permit in question is Application #202209132353. Please CLICK HERE or See Email Attached.

Issues with Construction and Permit #202209132353:

Many of these issues were called out verbally by Bill Walsh SF DBI inspector on the phone, 3rd party engineer, and 3rd party attorney.

1) Working without Permit: Photos / video were taken on Aug 16th, 2022 10:55am which can be provided of 146 23rd Ave working without a permit, inspection, or notify neighbors of the work in August 2022. During this time the workers dug roughly 10ft+ below from the original highest point of concrete and at least 3ft 6in below neighboring foundations, laid additional concrete, and were working in a dangerous manner going below both neighbors' foundations all without a permit.

2) No Pre-Construction Survey: Neighbors were never notified of work because they started work without a permit and we were never shown the plans per the DBI inspector's request. Neighbors were not shown the plans so that a pre-construction survey could take place and 3rd party engineers could make sure the neighboring properties' foundations were protected.

3) Working in a Dangerous Manner - a lot of construction happened going into foundation and laying concrete without permits or inspection, which is working in a dangerous manner.

4) Working Beyond Current Scope of Permit: we notified the construction they needed to do this by the book and get all the necessary permits for the job. From third party feedback we believe they did not follow all the proper code procedure and still do not have all the permits to complete the job safely and properly. Allegedly the construction is currently working beyond the scope of permit and did not follow procedures on inspections or codes.

5) Permit Job Valuation Cost Too Low: DPI inspector on the phone said in his opinion the job valuation on the permit was too low at $36,000. From 3rd party opinions this job could be valuated at close to $200,000 - $500,000+.

Thank You – Kieran Maher // 415-730-9514 // kieran.d.maher@gmail.com

Permit Details Report

Report Date:	**10/5/2022 4:37:39 PM**
Application Number:	202209132353
Form Number:	8
Address(es):	1382 / 033 / 0 146 23RD AV
Description:	ADD STRUCTURAL BEAM. ADD STRUCTURAL PIERS. REPLACE (E) WOOD COLUMN AND PIERS. REPLACE (E) SLAB, REINFORCE FOUNDATION.
Cost:	$36,000.00
Occupancy Code:	R-3
Building Use:	27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
9/13/2022	TRIAGE	
9/13/2022	FILING	
9/13/2022	FILED	
10/5/2022	APPROVED	
10/5/2022	ISSUED	

Contact Details:

Contractor Details:

License Number:	1044378
Name:	URIEL SALAZAR
Company Name:	SALAZAR CONSTRUCTION
Address:	215 RADCLIFFE DR * VALLEJO CA 94589-0000
Phone:	

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	INTAKE	9/13/22	9/13/22			9/13/22	CHAN CHENG	OTC PAPER PLAN
2	PAD-STR	9/13/22	9/13/22	9/13/22	10/5/22	10/5/22	CHAN PHILIP	Approved OTC. 10/5/2022 Comments OTC. 9/13/2022
3	CPB	10/5/22	10/5/22			10/5/22	LEE ERIC	

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

Appointments:

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

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks

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
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Date Filed: November 3, 2022

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

PRELIMINARY STATEMENT FOR APPEAL NO. 22-077

I / We, **Kieran Maher**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2022/10/28/5449** by the **Department of Building Inspection** which was issued or became effective on: **October 31, 2022**, to: **Thomas Monahan,** for the property located at: **146 23rd Avenue**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **November 10, 2022**, **(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 tmm@monahanpacific.com.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **November 22, 2022**, **(this is 2 days earlier than the Board's regular briefing schedule due to the Thanksgiving 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 and Kieran.d.maher@gmail.com.

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

Hearing Date: **Wednesday, November 30, 2022, 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, November 22, 2022 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 filed appeal by email.

Print Name: Kieran Maher, appellant

Hello Board of Appeals,

We would like to formally appeal the construction permit at 146 23rd Avenue San Francisco, CA 94121. The permit in question is Application #202210285449. Please CLICK HERE or See Email Attached.

Issues with Construction and Permit #202210285449:

Many of these issues were called out verbally by Bill Walsh SF DBI inspector on the phone, 3rd party engineer, and 3rd party attorney.

1) Working without Permit: Photos / video were taken on Aug 16th, 2022 10:55am which can be provided of 146 23rd Ave working without a permit, inspection, or notify neighbors of the work in August 2022. During this time the workers dug at least 3ft 6in below neighboring foundations, laid additional concrete, and were working in a dangerous manner going below both neighbors' foundations all without a permit.

2) No Pre-Construction Survey: Neighbors were never notified of work because they started work without a permit and we were never shown the plans per the DBI inspector's request. Neighbors were not shown the plans so that a pre-construction survey could take place and 3rd party engineers could make sure the neighboring properties' foundations were protected.

3) Working in a Dangerous Manner - a lot of construction happened going into foundation and laying concrete without permits or inspection, which is working in a dangerous manner.

4) Working Beyond Current Scope of Permit: we notified the construction they needed to do this by the book and get all the necessary permits for the job. From third party feedback we believe they did not follow all the proper code procedure and still do not have all the permits to complete the job safely and properly. Allegedly the construction is currently working beyond the scope of permit and did not follow procedures on inspections or codes.

5) Permit Job Valuation Cost Too Low: DPI inspector on the phone said in his opinion the job valuation on the permit was too low at $36,000. From 3rd party opinions this job could be valuated at close to $200,000 - $500,000+.

Thank You – Kieran Maher // 415-730-9514 // kieran.d.maher@gmail.com

Permit Details Report

Report Date:	**11/2/2022 4:16:54 PM**
Application Number:	202210285449
Form Number:	8
Address(es):	1382 / 033 / 0 146 23RD AV
Description:	STRUCTURAL UPGRADE TO BEAM, ADD STRUCTURAL PIERS, REPLACE WOOD COLUMNS AND PIERS, REPLACE EXISTING SLAB, REINFORNCE FOUNDATION, MINOR PLUMBING AND ELECTRCIAL WORK ASSOCATED. EXCAVATION OF 2FT FOR ADDITIONAL HEAD HT IN MIDDLE SECTION AWAY FROM PL. TO COMPLY WITH COMPLAINT # 202296964.
Cost:	$30,000.00
Occupancy Code:	R-3
Building Use:	27 - 1 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
10/28/2022	TRIAGE	
10/28/2022	FILING	
10/28/2022	FILED	
10/31/2022	APPROVED	
10/31/2022	ISSUED	

Contact Details:

Contractor Details:

License Number:	1044378
Name:	URIEL SALAZAR
Company Name:	SALAZAR CONSTRUCTION
Address:	215 RADCLIFFE DR * VALLEJO CA 94589-0000
Phone:	

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	BID-INSP	10/28/22	10/28/22			10/28/22		D.HELMINIAK
2	INTAKE	10/28/22	10/28/22			10/28/22	YU ZHANG REN	
3	BLDG	10/28/22	10/28/22			10/28/22	HOM CALVIN	APPROVED OTC
4	PAD-STR	10/28/22	10/28/22			10/28/22	HOM CALVIN	APPROVED OTC
5	DPW-BSM	10/31/22	10/31/22			10/31/22	THEO DEVINE DAVID	APPROVED 10/31/22: No alteration or reconstruction of City Right-of-Way under this permit. -TD
6	CPB	10/31/22	10/31/22			10/31/22	WU TIFFANY	

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

Appointments:

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

Inspections:

Activity Date	Inspector	Inspection Description	Inspection Status

Special Inspections:

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks

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Online Permit and Complaint Tracking home page.

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Contact SFGov Accessibility Policies
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BRIEF SUBMITTED BY THE APPELLANT(S)

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Attorneys for Appellants Kieran, Ann, and Patrick Maher

SAN FRANCISCO BOARD OF APPEALS

KIERAN, ANN, AND PATRICK MAHER,

Appellant,
vs.

DEPARTMENT OF BUILDING INSPECTION,

Respondent.

Case Nos. 22-076 and 22-077

Hearing Date: December 14, 2022

I. INTRODUCTION

The Maher family needs the Board's help, and the help of the Department of Building Inspection, to protect their home from a developer who has undermined their foundation and performed substantial work without permits. Once high-level DBI officials were made aware of this situation, they stepped in and issued Notices of Violation, but not until after the Mahers filed these appeals about the developer's permits and misconduct. The Mahers' simple plea is this: please do not let a scofflaw developer proceed with his project until he (a) has come up with a plan satisfactory to DBI and the Mahers' engineer to address his previous unpermitted work that undermined the Mahers' foundation, and (b) has come up with a plan acceptable to DBI and the Mahers' engineer for work going forward that will stabilize the site and monitor the Mahers' property for any further movement or damage.

These requests are modest and form the basis of countless good-neighbor agreements that trustworthy developers and neighboring property owners have entered into. But this developer, despite being caught red-handed, has refused to agree to these simple terms.

II. THE PARTIES

The Mahers are homeowners, living at 144 23rd Avenue. They have done nothing wrong. They are victims of a developer who has shown contempt for the permitting process and the Mahers' rights as neighboring property owners.

The developer is Tom Monahan. He claims to be developing a property at 146 23rd Avenue for his daughter. Mr. Monahan is listed in various documents as an architect, real estate developer, and contractor. His track record is astonishing. He and his company have been involved in no fewer than 91 lawsuits (yes, 91!) in Marin, San Francisco, and Sonoma counties alone. As to one of Monahan's developments, the United States Bankruptcy Court for the Northern District of California found that "Monahan was manipulating the books and records of

both [his companies] in order to avoid enforcement efforts of a judgment creditor." Monahan appealed this finding to the Ninth Circuit because it implied that he had engaged in fraud. The Ninth Circuit affirmed the bankruptcy court's finding. *In re MC2 Capital Partners*, 2015 WL 777649 (9th Cir. 2015).

III. THE PERMITS

On August 16, 2022, the Mahers observed significant construction and excavation occurring at the Monahan property. (See the video accompanying this brief as **Exhibit A**.) The Mahers reached out to Monahan and his contractors to make sure Monahan was performing the work with proper permits and in a manner that would not damage their home. In fact, Monahan had no permits.

It was not until October 5, 2022, that Monahan applied for Permit No. 202209132353 to "Add Structural Beam, Add Structural Piers, Replace Wood Colum and Piers, Replace Slab, and Reinforce Foundation." In the guise of strengthening an existing foundation, Monahan excavated the lower level and created a new foundation. He did not obtain an excavation permit.

Even worse, Monahan engaged in excavation below the foundations of the Mahers' home.

When the Mahers' pleas to Monahan fell on deaf ears the Mahers turned to DBI, filing a complaint on October 11, 2022. Unfortunately, the district building inspector did nothing to address the improper work, forcing the Mahers on October 20, 2022, to appeal this permit and get work stopped by this Board so that the dangerous, unauthorized construction could be addressed. Three days later, the district building inspector issued an NOV, stating that the "scope of work was misrepresented on the plans." The NOV notes that excavation "has undermined the footing of 150 23rd Avenue," but by this time Monahan had piled a large quantity of dirt along the property line adjacent to the Mahers' home so the inspector could not

see what work had been done at that location. (See **Exhibit A**, a video showing the piling of dirt along the Maher property line.)

But, Monahan's misconduct did not stop there. Eight days after worked stopped, he somehow convinced someone at DBI on October 28 to issue him a new permit (No. 202210285449) for almost the exact same scope of work and began work again – <u>despite the stop work order of the Board of Appeals</u>.

The Mahers appealed this second permit on November 2. Fortunately, the Mahers were able to elevate this issue to more senior DBI personnel (Joe Duffy, Matthew Greene, and Brett Howard). Mr. Howard visited the site on November 3 and read Monahan the riot act for doing work outside the scope of permits and violating stop work orders. He acknowledged to the Mahers that the second permit never should have been issued.

IV. ONGOING CONCERNS

As the Board is likely aware, California law (Civil Code section 832) requires a property owner intending to engage in excavation to "give reasonable notice to the owner or owners of adjoining lands. . . ." It goes on to requires that if "the excavation is to be of a greater depth than are the walls or foundations of any adjoining building or other structure, and is to be so close as to endanger the building or other structure in any way, then the owner of the building or other structure must be allowed at least 30 days, if he so desires, in which to take measures to protect the same from any damage. . . ."

Monahan did nothing to comply with this legal requirement. He provided <u>no notice</u> to the Mahers before engaging in unpermitted excavation, much less the 30 days' notice required for the type of excavation in which he engaged.

The Mahers have been forced to retain engineers to look into what Monahan has done and how it may have damaged their home. The engineers' report is attached as **Exhibit B**. The reports states, among other things:

- "The soil excavations that we observed during our own site visit and through the photos and videos provided to us by the Mahers indicates that the Mahers property line footing may have been compromised (i.e. undermined) by the work at 146 23rd Avenue."
- '[T]the excavations at 146 23rd Avenue . . . were performed without the involvement of a geotechnical design engineer and the project lacks a geotechnical report to identify how to protect neighboring properties, such as 144 23rd Avenue."
- "The San Francisco Building Department's (SF DBI) Notice of Violation also indicates that the original project drawings did not properly notify SF DBI of the foundation work and its effect on the neighboring properties."

The Mahers' engineers seek access to Monahan's property to assess "the north property line footing and any underpinning that has been performed." The engineers sensibly recommend that Monahan produce "a geotechnical report prepared by a qualified, licensed geotechnical engineer"; that the report "identify the existing soils conditions and a safe manner of construction at the project site, including recommendations to protect the neighboring property at 144 23rd Avenue"; and that the report "specifically identify what affect, if any, the project to date and future work at 146 23rd Avenue has or will have on 144 23rd Avenue, including the soils excavations and reported underpinning below the north property line foundation adjacent to 144 23rd Avenue."

Monahan may argue that this is a private dispute between property owners in which this Board should not be involved. That is false. Monahan violated the Building Code by not obtaining permits for his excavation and other work. As a result, his work was not inspected to ensure compliance with the Building Code and reasonable excavation and construction practices. This violation (by an experienced builder) enabled Monahan to literally cover up his wrongdoing so that neither DBI nor the Mahers can see what work Monahan performed under the Mahers' foundation or evaluate the steps Monahan took to remedy the condition he created. Neither DBI nor this Board should allow Monahan's work to proceed until DBI and the Mahers' engineers are provided sufficient access to investigate the scope and nature of the work Monahan performed without permits or required inspections.

The Mahers are not asking the Board or DBI to step into the role of a civil court and award the Mahers damages for Monahan's misconduct. Rather, the Mahers are simply asking the Board and DBI to not let Monahan proceed with work and further cover up the work he has done with permits or inspections until he has provided DBI and the Mahers' engineers with the access they need to assess the existing conditions and what needs to be done to remedy any problems caused by Monahan's unpermitted work.

Dated: November 23, 2022

MOSCONE EMBLIDGE & RUBENS LLP

By: J. Scott Emblidge
G. Scott Emblidge

Attorneys for Permit Holder

Exhibit A

Video Provided via Dropbox

https://www.dropbox.com/s/wyx7atupz9l3y3r/1%29%20VIDEO%20%28Non-Permitted%20Construction%20Aug%2016th%2C%202022%2010-55am%29%20-%20146%2023rd%20Avenue%20-%20Complaint%20%23202296964.mp4?dl=0

Exhibit B

Engineers' Report

FERRARI MOE, LLP
ARCHITECTS | ENGINEERS

2138 FOURTH STREET
SAN RAFAEL, CA 94901-2650
P (415) 458-3511 | F (415) 458-3512
www.ferrarimoe.com

16 November 2022

VIA EMAIL emblidge@mosconelaw.com

Kieran Maher
c/o Scott Emblidge
Moscone Emblidge & Rubens
220 Montgomery Street, Suite 2100
San Francisco, CA 94104

Re: **144 23rd Avenue, San Francisco - #22127**
Subj: **Report on Neighboring Construction Work at 146 23rd Avenue**

Dear Scott:

At the request of Kieran Maher, Ferrari Moe, LLP (Ferrari Moe) is providing this report to document the recent construction activity at 146 23rd Avenue and its effect on 144 23rd Avenue. The Maher's are the owners of 144 23rd Avenue and we understand that 146 23rd Avenue is under construction by the Monahan Pacific Design Group (MPDG). We understand that MPDG is also the Owner/Developer of 146 23rd Avenue. Ferrari Moe is providing this letter report to summarize our findings.

Background and Information from 144 23rd Ave. Owner (Kieren Maher, son of Owners Patrick and Ann Maher)
144 23rd Avenue is a 3-story, wood framed building, including 2 floors of residential space over a grade-level garage and storage space. We understand that 146 23rd Aveue and 150 23rd Avenue have similar construction with 150 23rd Avenue being the property to the south of 146 23rd Avenue and 144 23rd Avenue is the property to the north of 146 23rd Ave.

1. Working without a Permit (16 August 2022):

   A. Mahers observed on 16 August 2022 excavations of approximately 40" depth below the north and south property line foundations/footings at 146 23rd Avenue (i.e. adjacent to the Maher's foundation to the north and the 150 23rd Avenue foundation to the south). Mahers have photos and videos showing construction excavations underway in the garage/grade level area. Ferrari Moe assumes, but has not field verified that all three properties have footings at approximately the same elevation.

   B. Mahers told Ferrari Moe (FM) that they had several conversations with Tom Monahan of MPDG both before and after their observations of the 16 August construction activity requesting that MPDG perform work at 146 23rd Avenue with appropriate permits and to ensure that 144 23rd Avenue be underpinned before performing any excavations at 146 23rd Ave.

   C. SF DBI (San Francisco Division of Building & Inspections (Building Department)) issued a permit (Permit #2022-10-28-5449) to 146 23rd Avenue dated 5 October 2022. Mahers and FM do not have copies of the approved plans.

   D. The Mahers said that they filed a complaint with SF DBI (Complaint # 022-96964 on 11 October 2022) when it appeared that MPDG was not complying with their requests. The Mahers told FM

that they were not told that construction was proceeding and MPDG had not contacted the Mahers to arrange for underpinning their foundation.

E. FM asked Patrick Maher specifically what he saw with respect to MPDG undermining the Mahers footing since Patrick does not have photos or videos of the excavations. Patrick indicated that he saw 3'6" deep excavations that were approximately 4 ft wide cut into the existing soil and being infilled with hand mixed bags of concrete. The concrete was held in place by plywood forms against the foundation/footing. Patrick recalls seeing three of these excavations separated by existing areas of sand/soil that were approximately 4 ft wide between the three areas that were infilled with concrete. We understand that the above-noted sand between the concrete infill is the native soil/foundation. Patrick indicated that the excavations were believed to be below the Maher's footing at 144 23rd Avenue, but Kieren Maher raised the question of whether this concrete work may have been performed below the footing of 146 23rd Avenue, rather than below the Maher's footing.

F. SF DBI issued a NOV (Notice of Violation) dated 20 October 2022 noting that excavations at 146 23rd Avenue were undermining the neighboring property to the south and the scope of work was misrepresented on the 146 23rd Avenue plans. Mahers said that they contacted SF DBI to have SF DBI document that their foundation to the north of 146 23rd Avenue was also undermined. Neither Mahers nor FM have the original construction plans.

G. FM met with Kieran Maher and Tom Monahan at 146 23rd Avenue on 2 November 2022. Tom Monahan provided us with an updated set of plans dated 26 October 2022, labeled Delta 1, with SF DBI approval date 31 October 2022.

H. Kieran Maher and Tom Monahan met with SF DBI, Brett Howard, at 146 23rd Avenue on 3 November 2022. FM understands that Brett Howard noted that SF DBI's stop work order and NOV (Notice of Violation) dictates that work will not proceed until the NOV is resolved and SF DBI should not have approved updated permit drawings until the NOV is resolved.

Observations

As noted above, Ferrari Moe (FM) met with Kieran Maher and Tom Monahan at 146 23rd Avenue on 2 November 2022. The following is a summary of FM's observations at 146 23rd Avenue on 2 November before the meeting between SF DBI (Brett Howard), Kieran Maher and Tom Monahan.

1. Excavated/disturbed soil along the north property line adjacent to 144 23rd Avenue extending from the north foundation wall to approximately the middle of the room. The referenced area is bounded by Gridlines A, C, 1 and 6 on the MPDG Drawing A2.2. Drawing A3.2 Section 2 shows the relation of the footings at 146 23rd Avenue and the two neighboring properties. However, the MPDG Drawing A3.2 Section 2 shows the footings at neighboring properties at 144 and 150 23rd Avenue to be lower than the original footings at 146 Avenue and we expect that that they are likely at the same elevation, but this has not been field verified. Both drawings are attached.

2. Excavation removed soil along the south property line adjacent to 150 23rd Avenue. The excavation measured approximately 40" below the 146 23rd Avenue south property line footing. The excavated area generally occurred at the south half of the garage, excluding a few feet at the east end of the garage and was generally bounded by Gridlines C, E, 3 and 6.

3. New concrete placed below the east (rear) footing (i.e. concrete underpinning of the existing east/ rear footing at 146 23rd Avenue).
4. Disturbed and loose sandy soil adjacent to the new concrete placement under the east/rear footing.
5. Excavations and concrete underpinning below the garage footing along Gridline B, between Grids 6 and 7.5. Concrete underpinning had been performed between approximately Grids 6 and 7 along Gridline B and the excavation continued west to approximately Gridline 7.5.

Refer to Appendix A for photographs.

Conclusions/Commentary

The following is a summary of our conclusions and commentary following our brief review of the excavation at the neighboring property at 146 23rd Avenue.

1. The Mahers did not agree to allow work to proceed at the neighboring property, which would potentially have an impact on their building and footing at 144 23rd Avenue.
2. The soil excavations that we observed during our own site visit and through the photos and videos provided to us by the Mahers indicates that the Mahers property line footing may have been compromised (i.e. undermined) by the work at 146 23rd Avenue.
3. Patrick Maher believes that he observed the construction of three locations of underpinning below the property line footing at 144/146 23rd Avenue and Patrick Maher also believes that this soil excavation and concrete underpinning may have been directly below the Maher's footing at 144 23rd Avenue.
4. Ferrari Moe understands that the excavations at 146 23rd Avenue (and possibly 144 23rd Avenue per Item 3 comments above) were performed without the involvement of a geotechnical design engineer and the project lacks a geotechnical report to identify how to protect neighboring properties, such as 144 23rd Avenue.
5. Ferrari Moe understands that property line work at foundations that may potentially affect neighboring properties requires appropriate notification of neighbors and proper identification on foundation drawings per California Civil Code §832 (see Appendix C).
    A. We understand that this was not provided by Monahan Pacific Design Group (MPDG) to the Mahers.
    B. The San Francisco Building Department's (SF DBI) Notice of Violation also indicates that the original project drawings did not properly notify SF DBI of the foundation work and its effect on the neighboring properties.
6. The Mahers request access to the neighboring property at 146 23rd Avenue including full review of the north property line footing and any underpinning that has been performed. It is preferred that this review by the Maher's engineer will be performed in coordination with the MPDG's geotechnical engineer during their review of the north property line footing so that both parties can observe and document the same conditions.

A. The intent is to assess the soil and footing conditions in the vicinity of the Maher's footing following the work at 146 23rd Avenue.

B. It is expected that the soil that is currently piled along the north footing will need to be removed to identify the full depth and width of the work performed along this footing.

C. The Mahers also request the the foundation work at the neighboring property include a geotechnical report prepared by a qualified, licensed geotechnical engineer.

1. The report should identify the existing soils conditions and a safe manner of construction at the project site, including recommendations to protect the neighboring property at 144 23rd Avenue.

2. The report should specifically identify what affect, if any, the project to date and future work at 146 23rd Avenue has or will have on 144 23rd Avenue, including the soils excavations and reported underpinning below the north property line foundation adjacent to 144 23rd Avenue.

7. Ferrari Moe recommends that the Mahers retain their own geotechnical engineer to assist them with assessment of how their footing has been affected by the work at 146 23rd Avenue.

If you have any questions, please do not hesitate to call.

Sincerely,

FERRARI MOE, LLP

Jim M. Markovich, PE

Enclosures
Appendix A - Photos
Appendix B - Monahan Pacific Design Group Drawings A2.2 & A3.2, dated Delta 1, 26 October 2022
Appendix C - State of California Civil Cod Section 832

cc: Brett Ferrari, S.E., Ferrari Moe, LLP - brett@ferrarimoe.com
Kieran Maher, kieran.d.maher@gmail.com

Photo 1 - 146 23rd Avenue

Overview of 146 23rd Avenue (center) with 144 23rd Avenue at left and 150 23rd Avenue to right of photo.

Photo 2 - 146 23rd Avenue

Overview of garage excavation underway at 146 23rd Avenue looking towards excavation by north foundation wall by 144 23rd Avenue.

Photo 3 - 146 23rd Avenue

Overview of excavation approximately 40" below south footing at 146 23rd Avenue.

Photo 4 - 146 23rd Avenue

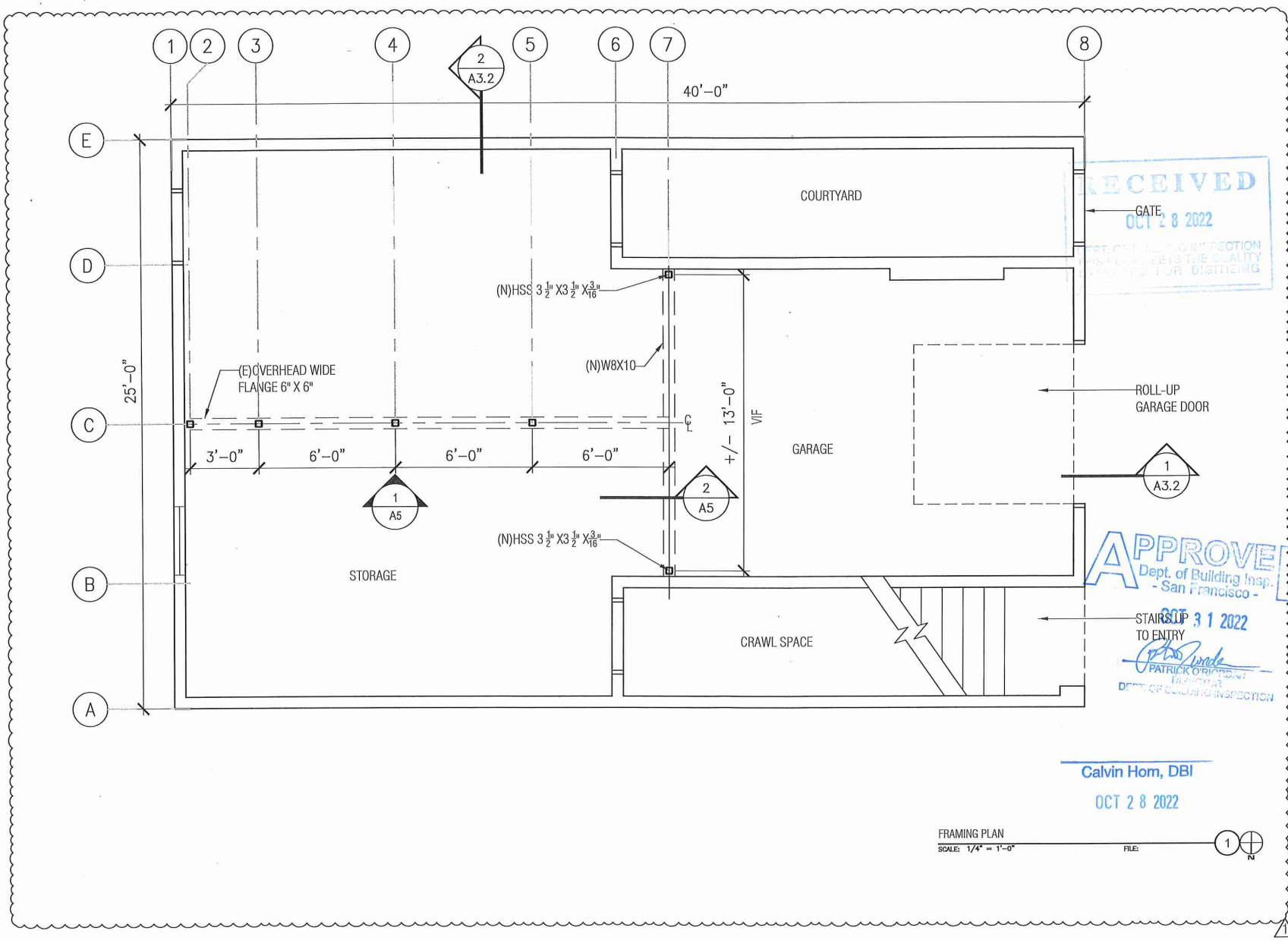
Close-up of excavation approximately 40" below south footing at 146 23rd Avenue.

Photo 5 - 146 23rd Avenue

Sand piled along north wall footing concealed much of footing during Ferrari Moe site visit.

Photo 6 - 146 23rd Avenue

New concrete underpinning (pier) below east footing at 146 23rd Avenue. Arrow points to loose, disturbed soil contained by plywood and timber brace adjacent to new concrete pier.



FRAMING PLAN
SCALE: 1/4" = 1'-0"
FILE:

RECEIVED
OCT 28 2022
DEPT. OF BUILDING INSPECTION
THIS PLAN MEETS THE QUALITY
STANDARD FOR DIGITIZING

APPROVED
Dept. of Building Insp.
- San Francisco -
OCT 31 2022
PATRICK O'RIORDAN
DIRECTOR
DEPT. OF BUILDING INSPECTION

Calvin Hom, DBI
OCT 28 2022

MONAHAN PACIFIC DESIGN GROUP

ADDRESS:
146 23rd AVENUE
SAN FRANCISCO, CA.
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415-456-0600

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1. THE COPYRIGHT OF THIS DRAWING IS VESTED IN MONAHAN PACIFIC DESIGN GROUP AND IT MAY NOT BE REPRODUCED IN WHOLE OR PART OR USED WITHOUT THE EXPRESS PERMISSION OF THE COPYRIGHT HOLDERS.

1 OCTOBER 26, 2022

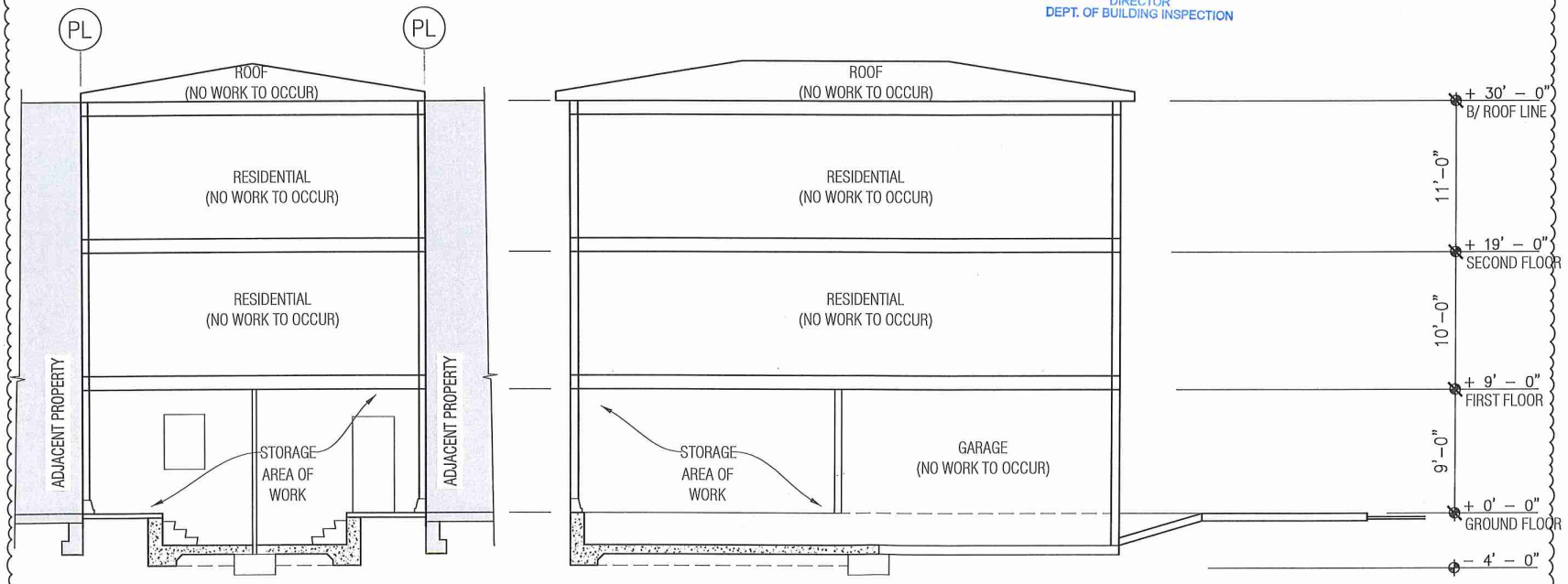
LICENSED ARCHITECT
THOMAS M. MONAHAN
No C-14918
1.3.23
RENEWAL DATE
STATE OF CALIFORNIA

1 ADDENDUM 1 10/27/2022

SEPTEMBER 26, 2022

NEW CONSTRUCTION FRAMING PLAN

A2.2



NEW CONSTRUCTION SHORT SECTION
SCALE: 1/8" = 1'–0" FILE: 2

NEW CONSTRUCTION LONG SECTION
SCALE: 1/8" = 1'–0" FILE: 1

APPROVED
Dept. of Building Insp.
- San Francisco -
OCT 31 2022
PATRICK O'RIORDAN
DIRECTOR
DEPT. OF BUILDING INSPECTION

RECEIVED
OCT 28 2022
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THIS PLAN SHEETS THE QUALITY
STAMP IS FOR DIGITIZING

Calvin Hom, DBI
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1 OCTOBER 26.2022

LICENSED ARCHITECT
THOMAS M. MONAHAN
No C-14918
1.31.23
RENEWAL DATE
STATE OF CALIFORNIA

1 ADDENDUM 1 10/27/2022

SEPTEMBER 26, 2022

BUILDING SECTION

A3.2

State of California

CIVIL CODE

Section 832

---

832. Each coterminous owner is entitled to the lateral and subjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction or improvement, under the following conditions:

1. Any owner of land or his lessee intending to make or to permit an excavation shall give reasonable notice to the owner or owners of adjoining lands and of buildings or other structures, stating the depth to which such excavation is intended to be made, and when the excavating will begin.

2. In making any excavation, ordinary care and skill shall be used, and reasonable precautions taken to sustain the adjoining land as such, without regard to any building or other structure which may be thereon, and there shall be no liability for damage done to any such building or other structure by reason of the excavation, except as otherwise provided or allowed by law.

3. If at any time it appears that the excavation is to be of a greater depth than are the walls or foundations of any adjoining building or other structure, and is to be so close as to endanger the building or other structure in any way, then the owner of the building or other structure must be allowed at least 30 days, if he so desires, in which to take measures to protect the same from any damage, or in which to extend the foundations thereof, and he must be given for the same purposes reasonable license to enter on the land on which the excavation is to be or is being made.

4. If the excavation is intended to be or is deeper than the standard depth of foundations, which depth is defined to be a depth of nine feet below the adjacent curb level, at the point where the joint property line intersects the curb and if on the land of the coterminous owner there is any building or other structure the wall or foundation of which goes to standard depth or deeper then the owner of the land on which the excavation is being made shall, if given the necessary license to enter on the adjoining land, protect the said adjoining land and any such building or other structure thereon without cost to the owner thereof, from any damage by reason of the excavation, and shall be liable to the owner of such property for any such damage, excepting only for minor settlement cracks in buildings or other structures.

(Amended by Stats. 1968, Ch. 835.)

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

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Lauren Monahan

BOARD OF APPEALS

CITY AND COUNTY OF SAN FRANCISCO

KIERAN, ANN, AND PATRICK MAHER, Appellants, v. DEPARTMENT OF BUILDING INSPECTION, Respondent.	Case Nos. 22-076 and 22-077 **BRIEF BY THE PROPERTY OWNER AND EXHIBITS** Hearing Date: December 14, 2022

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LIST OF EXHIBITS

Exhibit A	Curriculum vitae for John Egan, licensed architect, Egan | Simon Architecture, Peter Erdelyi, licensed structural engineer, Peter Erdelyi & Associates, Inc., and Shane Rodacker, licensed geotechnical and civil engineer, Geocon Consultants, Inc.
Exhibit B	Letter from Peter Erdelyi, licensed structural engineer, Peter Erdelyi & Associates, Inc.
Exhibit C	Letter from Shane Rodacker, licensed geotechnical and civil engineer, Geocon Consultants, Inc.

I. INTRODUCTION

Lauren Monahan needs this Board's help to protect her safety. Earlier this year, Lauren, a Bay Area native, purchased her single-family home at 146 23rd Avenue, which is her primary residence. The home was built in 1916 and unfortunately, the home inspection report provided by the seller failed to disclose the fact that the over 100-year-old foundation is failing. A new roof and repair of dry rot was also required. Lauren merely wants to make improvements so she can live safely in her aged home, and has been shocked by the negative actions taken by her disgruntled neighbors. She is perplexed by the fact that they apparently do not want her to complete this structural retrofit project and seriously questions their motives. The nature of the proposed work is routine under these circumstances and in the interest of safety.

Lauren is a young, hard-working woman who has already faced substantial financial consequences and, more importantly, a risk to her life and home, as a result of the appeals. We respectfully urge that this Board deny the appeals and allow Lauren to proceed with the critical structural improvements authorized under the Revised Building Permit (defined below), which was approved by qualified professionals at the City and County of San Francisco Department of Building Inspection ("DBI"). There has already been one significant earthquake since the first appeal was filed and Lauren deserves to live in a safe home without fear. Furthermore, the structural improvements will not only protect Lauren, but also her neighbors.

Although not relevant to the appeals, Lauren's father, Thomas Monahan, is in fact a well-respected developer and licensed architect. He is President and CEO of Monahan Pacific Corporation, which has developed an array of office, mixed-use and residential projects throughout the Bay Area, including first-class offices and multi-million-dollar high-rises in San Francisco. It appears far more likely that the appellants are actually interested in his involvement because of his financial resources. Their attempt to disparage Lauren's father in a public forum is despicable. Thomas is a caring and loving father and of course wants his daughter to be safe in her home. He has stepped in, as any good father would, to assist her in that process.

II. BACKGROUND

After Lauren moved into her new home, she discovered significant cracking in the perimeter foundation and in the concrete slab in the basement parking garage, which is located under the structural columns supporting her home. Initially, the proposed solution was to patch and repair the concrete slab. However, when Lauren discovered that the concrete slab did not contain any supporting rebar, the next appropriate step was to remove the non-structural concrete pad, approximately two inches thick. To her surprise, the existing footings were not supported, only being held up by unreinforced concrete. It became clear that additional work and an associated building permit would be required. Limited investigatory work was conducted to determine the scope of work the permit would need to include.

Lauren retained the services of qualified professionals, including (i) John Egan, licensed architect, Egan | Simon Architecture; (ii) Peter Erdelyi, licensed structural engineer, Peter Erdelyi & Associates, Inc.; and (iii) Shane Rodacker, licensed geotechnical and civil engineer, Geocon Consultants, Inc. See the curriculum vitae attached hereto as Exhibit A. Those qualified professionals prepared plans and structural calculations for a building permit to provide the requisite structural support for her home, which was issued by DBI on October 5, 2022 (Building Permit No. 2022-09-13-2353) (the "Initial Building Permit").

The appellants became concerned – not about Lauren's safety – but supposedly due to the proximity of the work to their property, notwithstanding the fact that none of the work would encroach onto their property. To address those purported concerns, DBI inspector, Enrique Argumedo, conducted an on-site inspection to confirm that the work being performed was in compliance with the Initial Building Permit. Even so, much to Lauren's surprise, her disgruntled neighbors filed a complaint with DBI and an appeal of the Initial Building permit to this Board.

To further address the appellants' purported concerns, Thomas Monahan, also a licensed architect, revised the plans and a new building permit was issued by DBI on October 31, 2022 (Building Permit No. 2022-10-28-5449) (the "Revised Building Permit"), which does not include any work within five feet of the north and south property lines. As explained by Lauren's licensed structural engineer, that setback should result in the work being located far enough from the shared

property line to avoid any undermining of the appellants' foundation vertically and laterally. See Exhibit B, attached hereto. As explained by Lauren's licensed geotechnical and civil engineer, foundation movement at the adjacent building due to forthcoming excavations is unlikely and, from a geotechnical standpoint, the retrofit project can resume. See Exhibit C, attached hereto. DBI clearly agreed with those conclusions in issuing the Revised Building Permit. Accordingly, Lauren was shocked to learn that the Revised Building Permit was also appealed to this Board.

The appellants then further jeopardized Lauren's safety by requesting an extension of the originally scheduled hearing before this Board by one month. What ultimately resulted from that threat and related delay was an agreement prepared by opposing counsel, seemingly in an attempt to extort Lauren for significant sums of money in the guise of a "settlement" agreement. Opposing counsel has assured this Board that the terms of the proposed "settlement" agreement are standard and within reason, but the opposite is true. To wit: the proposed agreement would, among other things, require Lauren to pay the appellants fifty thousand dollars ($50,000), possibly more, and require her to pay her contractors and subcontractors to maintain commercial general liability insurance in the amount of at least ten million dollars ($10,000,000) when the DBI requirement, which has been met, is one million dollars ($1,000,000).

We understand from Lauren that one or more of the appellants have also used intimidation tactics, including but not limited to:

- A threat to "lawyer up" on Lauren with an "influential" attorney (see above);
- A threat to jeopardize Lauren's reputation and relationship with other neighbors;
- A threat to "keep this going" for multiple years to prohibit Lauren from making structural improvements if she does not enter into the "settlement" agreement;
- Repeatedly taking unnecessary photographs of Lauren's home during unrelated work (painting and landscaping) and refusing to stop when workers ask not to be personally photographed; and
- Moving paint buckets from Lauren's driveway and blocking her driveway while painters were working at her home.

Lauren is understandably rattled by these continued intimidation tactics, which have arguably risen to the level of harassment by the appellants and further highlight the true purpose of the appeals.

III. ARGUMENT

A. The concerns raised by the appellants have already been addressed

Again, the plans were revised and the Revised Building Permit was issued by DBI to address the appellants' concerns about the proximity of the work to their property line. No other concerns related to the Revised Building Permit were raised by the appellants until after a second appeal was filed with this Board, notwithstanding multiple in-person meetings between the parties. That leads Lauren to believe that the actual purpose of the second appeal is extortionary in nature.

B. No supporting evidence has been provided by the appellants

The appellants have provided no evidence to support the granting of the appeals. A few examples include:

- The appellants appealed the Revised Building Permit but provide no evidence for why the work proposed under that permit should not have been approved by DBI.
- As acknowledged in their brief to this Board, the appellants have not bothered to perform any field verifications on their own property.
- The appellants claim that their foundation has been undermined, but provide no related evidence.

Furthermore, to the extent that the appellants have attempted to provide evidence, it is misleading. For example, some of the photographs attached to the appellants' brief are not accurately described.

C. Inaccurate and misleading statements have been made by the appellants

The appellants have also included inaccurate and misleading statements in their brief to this Board. A few examples include:

- The appellants suggest that this is a new "development" project. However, the proposed work only affects approximately 400 square feet inside the existing building perimeter.

- The appellants suggest that work was done without a required excavation permit. However, as DBI is aware, no excavation permit is required where, as applicable here, fewer than 50 cubic yards of soil will be disturbed.
- The appellants argue that a geotechnical report should be prepared, in part to identify the exiting soil conditions. However, those soil conditions (native dune sand deposits) are known, as acknowledged in their brief to this Board. As explained by Lauren's licensed structural engineer, structural calculations were made using a bearing pressure associated to native soils at the site based on the California Building Code. See Exhibit B.
- The appellants suggest that underpinning is required below the north property line. However, as explained by Lauren's licensed geotechnical and civil engineer, an underpinning system to support the adjacent structure is not expected given the limited extent of the excavations. See Exhibit C.
- The appellants claim that 30-day notice was required. That requirement only applies where the depth of the excavation is greater than the walls or foundations of the adjoining building. We also note that the appellants had actual notice at least 76 days prior to the excavation work proposed under the Initial Building Permit. Furthermore, as recognized by the appellants, the purpose of the notice requirement is to provide an adjacent property owner with the opportunity to take measures to protect their building from potential damage "if he so desires." We understand that the appellants have not shown any interest in making any repairs or improvements to their circa 1913 foundation, which is likely also failing, presenting a potential safety hazard.
- Contrary to the appellants' claims, all work has been completed safely. Lauren understands that the appellants were concerned about work within close proximity to their property line and obtained the Revised Building Permit to address those concerns.

IV. CONCLUSION

Again, Lauren has already faced substantial financial consequences and more importantly, a risk to her life and home, as a result of the appeals. We respectfully urge that this Board deny the appeals and allow Lauren to proceed with the critical structural improvements authorized under the Revised Building Permit. There has already been one significant earthquake since the first appeal was filed and Lauren deserves to live in a safe home without fear. Furthermore, the proposed structural improvements will not only protect Lauren, but also her neighbors. As explained by Enrique Argumedo at DBI, upgrading an old unreinforced foundation is advisable and more homeowners should do the same. We suggest that the appellants follow Lauren's lead and make structural improvements to their home to ensure their safety and the safety of their neighbors. That would be a far wiser use of their time and financial resources.

This Board should not be persuaded by the appellants' unsupported, inaccurate, and often irrelevant claims. To do so would allow the appellants to continue to jeopardize Lauren's safety and would give them the opportunity to continue to use intimidation tactics, including threats of additional appeals, in an attempt to force Lauren into a "settlement" agreement for their personal gain. We question the appellants' motives in light of their intimidation tactics and the second appeal. Again, the Revised Building Permit addresses their stated concerns and their purported concerns continue to change.

We understand that this Board reviews building permit appeals "de novo" but we respectfully urge that this Board defer to the expertise of the professionals at DBI as that pertains to the adequacy of the plans and structural calculations prepared for and approved by DBI pursuant to the Revised Building Permit. Accordingly, we respectfully urge this Board to deny the appeals and uphold the Revised Building Permit so the critical structural improvements authorized under that permit can proceed without further delay.

We also note that after reviewing this Board's hearing agendas over the past year, there is a notable lack of appeals of this nature. Rather, the majority of permit appeals heard by this Board are appropriately limited to alteration permits issued by DBI and approved by the Planning Department, which typically involve a significant remodel, addition and/or construction of a new

ADU. We understand and appreciate the appeal process, particularly under such circumstances. However, we also recognize that the appeal process provides an opportunity for the abuse of that process. We urge that you not let that happen here, where an interior structural retrofit is required to make a home livable. Lauren deserves to live in a safe home without fearing for her life.

Dated: December 8, 2022

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
MICHAEL J. BETZ
CAROLINE G. CHASE

By: _____
CAROLINE G. CHASE
Attorneys for Property Owner
Lauren Monahan

EXHIBIT A

EGAN | SIMON
architecture

JOHN S. EGAN

As Principal of Egan | Simon Architecture, John provides experience-based leadership in design and construction techniques. He believes in environmentally responsible architecture as evident by his award-winning environmental projects. His team's practice borrows from past and current technologies to create a progressive architecture that brings balance, harmony and thoughtfulness to the solutions they bring to life.

John attended the prestigious University of Southern California's School of Architecture. His early influences include endless summer swimming, biking the Mt. Vernon Trail with the cherry blossoms in bloom, observing the Space Shuttle Challenger launch, shortcuts through the lobbies in the Chicago Loop to avoid the winter chill, and being a runner at the commodity pits at the Chicago Board of Trade.

John's passion for design has manifested in successful architectural works both private and community based. He believes by identifying, considering and responding to the influences of memory, thought, and the experience presented, the solution to most challenges are created.

During his collegiate years, John worked within a grassroots movement seeking a solution to the Southern California Homeless Crisis. Throughout his career, he has continued his efforts to provide socially based architectural solutions for those in need. Notable projects include the Project Angel Food Kitchen, which in 2021 served one million meals to individuals in need; Step-Up on Vine, which offers housing for homeless individuals with persistent and severe mental illness and was architecturally recognized by the U.S. Green Building Council and by the Clinton Global Initiative; the Calvet Kitchen on the West Los Angeles Veterans Campus, which serves meals to over 390 veterans in care; and the Rise Apartments, which provides homes for previously homeless Veterans, and is distinguished by the America Institute of Architect Los Angeles for design excellence.

John's work in the private sector has been equally well established and recognized. Soon after opening his office, John was selected for the renovation of the prestigious Hotel Bel-Air. The experience of working with a world class team on a legendary property was profound. From meeting expectations to material usage to the attention every detail deserved, the project served as an ideal foundation for the multiple private works he was awarded that followed, including numerous prestigious private residences in Southern California.

John is a past Board member of the USCGBC-LA; a past Board member of the American Institute of Architects Los Angeles, as a representative to the California AIA; a licensed Architect in California and Florida; a Leadership in Energy and Environmental Design (LEED) Accredited Professional and registered with the National Council of Architectural Registration Board (NCARB). He is currently participating with the Rotary Club of Downtown Los Angeles Satellite Club Homelessness dedicated to helping provide solutions to those experiencing homelessness.

PETER T. ERDELYI & ASSOCIATES, INC.

Architectural engineering
Structural design

Peter T. Erdelyi

Professional Engineer

Overview of Qualifications

Structural Designer and Engineer of residential (including condominium) and commercial enterprises. In excess of 15,000 structures designed to date, working with over 800 architects and designers. Involved in projects related to earthquake repairs, house bolting, condominium conversions, and structural observations for homeowners, financial institutions, real estate brokers, and law firms. Performs peer reviews for the City of Culver City's Department of Building & Safety and is a member of the City of Culver City Board of Appeals. Involved in forensic work, numerous depositions and has qualified and testified as a structural engineering expert in many Los Angeles Superior Court lawsuits.

Education

- Polytechnical University of Budapest; B.S. degree 1968; M.S. degree 1969;
- Major field: Civil and Construction Engineering

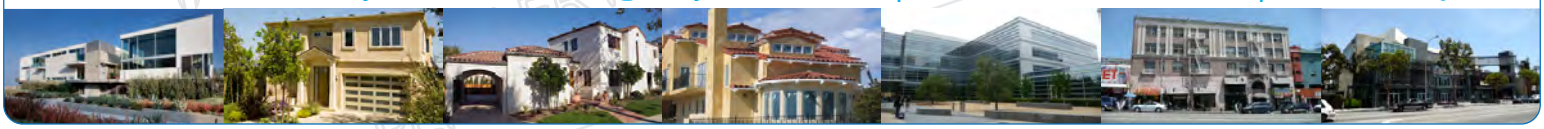
Professional experience

- 1988 – Present: Owner, Peter T. Erdelyi & Associates, Inc., Los Angeles, CA.
- 1978 – 88: Co-Founder and owner, Erdelyi, Moon, Mezey & Associates, Los Angeles, CA; name subsequently changed to Erdelyi-Mezey & Associates
- 1975 – 78: Design Engineer, Vincent Kevin Kelly Consulting Structural Engineers, Santa Monica, CA.
- 1974 – 75: Design Engineer, Beven Herron, Buena Park, CA.
- 1970 – 74: Staff Engineer, Dyckerhoff & Weidman, Munich - Design Engineer
- Nicholas Sprangler, Munich - Chief Supervising Engineer, Furst Co.,

Licenses

- 1976 Professional Engineering, CA License # 26962
- Also holds Professional Engineering Licenses in Nevada, New Mexico, Oregon, Washington and Texas.
- Professional Engineering (Structures) License, 1971, Germany
- Professional Engineering (Structures) License, 1969, Hungary

1950 Sawtelle Blvd., Ste 175 Los Angeles, CA 90025 | Tel: (310) 553-9339 | www.erdelyi.com



GEOCON

Shane Rodacker, GE

Title
Vice President
Senior Engineer

Office
Livermore
Fairfield

Professional Organizations
ASCE
CalGeo
Geoprofessional Business Association
ACEC

Mr. Rodacker has 20+ years of geotechnical engineering experience with a wide range of projects in California and Nevada. He has conducted hundreds of geotechnical investigations and provided practical recommendations and solutions during the design and construction of major transportation and infrastructure projects, low- to high-rise mixed-use developments, and educational and essential services facilities. A variety of public agencies, design engineers and architects, and private sector clientele rely on Shane's experience and wider project perspective when making decisions regarding project feasibility, foundation systems and site development. He has been the geotechnical engineer of record for large-scale land development projects with millions of cubic yards of earthwork and remedial grading involving massive buttresses, shear keys and subsurface drainage systems.

Shane manages Geocon's geotechnical services in the greater Bay Area. He is a registered Geotechnical Engineer in California and registered Civil Engineer in California and Nevada.

EXHIBIT B

PETER T. ERDELYI & ASSOCIATES, INC.
Architectural engineering | Structural design

December 6, 2022

Thomas Monahan
146 23rd Ave,
San Francisco, CA 94121

RE: 146 23rd Avenue Street, San Francisco, CA 94121

To Whom It May Concern:

It is our understanding that the scope of work associated to the permit issued for the work at 146 23rd Avenue Street has not been installed, and that the project permit has been placed on hold by the Department of Building Inspection.

It is our understanding that the Department of Building Inspection placed the permit on hold in order to allow for the neighbor's concerns to be reviewed. We are writing this letter to be of assistance to the Department of Building Inspection in their effort to resolve these concerns and allow the project as designed to proceed.

Our office assisted Lauren Monahan by providing design calculations for the proposed foundation design and support post replacement. The support posts occur in the center of the basement and should not be of any concern to the neighbor. The new support posts replace the existing support posts, and the new support posts are far better than the older existing system. In reviewing the concrete foundation design we provided structural calculations using a bearing pressure associated to native soils described at the site, cemented sand, based on the California Building Code.

We understand that to appease the neighbor's concerns, the drawings have been updated to move the foundation work 5'-0" away from the shared property line. This should result in the work being located far enough from the shared property line to avoid any undermining of the neighbors foundation vertically and laterally.

At the request of the Monahan's we have talked with the neighbor's engineer, Jim Markovich, and we are under the impression that all concerns have been resolved.

It is our hope that this letter allow for the project to continue and that Lauren can complete her project and enjoy her new home.

Sincerely,

Peter T. Erdelyi
Professional Engineer
CEO/Founder
State license number C26962

REGISTERED PROFESSIONAL ENGINEER
PETER T. ERDELYI
C26962
EXP. 3-31-23
CIVIL
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EXHIBIT C

Project No. E9349-04-01
December 6, 2022

Ms. Lauren Monahan
1101 Fifth Avenue, Suite 300
San Rafael, California 94901

Subject: 146 23rd AVENUE
SAN FRANCISCO, CALIFORNIA
GEOTECHNICAL CONSULTATION

Reference: Structural Plans: *146 23rd Avenue, San Francisco, CA 94121,* prepared by Monahan Design Group, Addendum 1 dated October 27, 2022.

Dear Ms. Monahan:

In accordance with your request, we have prepared this correspondence to provide geotechnical engineering input relative to an ongoing structural retrofit project at the subject residential property in San Francisco. The information herein is based on our observations at the site and our review of the referenced structural plans and relevant geologic mapping. The subject property is a three-story (two stories over tuck-under garage) wood-framed home that was constructed in 1916.

Based on the referenced structural plans and onsite discussions with the project contractor, the project will construct three new isolated pad footings in the crawl space behind the garage, generally along the east-west axis of the residence. The project will also construct two short masonry block retaining walls parallel to the east-west axis, each approximately 7 feet to the north or south of the axis and supported by new strip footings. New concrete slabs-on-grade are proposed atop the masonry block walls, between the walls and the building perimeter. New slab-on-grade is also planned between the new block walls. We note that the zone of soil-slurry mix below the northern exterior wall, as shown on Detail 1 on Sheet A4 of the referenced plans, will not be constructed.

It should be understood that the area between the planned new pad footings and the northern exterior wall was our focus as we understand the adjacent property owner to the north has expressed concerns regarding foundation movement that could potentially be caused by construction activities. We understand that retrofit construction has been halted by the City and County of San Francisco's Department of Building Inspection in response to the concerns brought forth by the property owner.

At the time of our November 18, 2022 site visit, excavations for the aforementioned pad footings were partially completed and soils were exposed throughout the crawl space. Based on our observations onsite, the building is underlain by native dune sand deposits that are prevalent in the project area and consistent with various geologic mapping. Where the dune sands were undisturbed, the materials were dense and competent under hand probe. Loose excavation spoils were noted atop the native sands in some areas.

We understand that excavations for the new footings discussed above will not extend below a 1½:1 (horizontal:vertical) plane projected down and outward from the foundation of the existing residence to the north. Given the discussion herein, it is our opinion that foundation movement at the adjacent building due to forthcoming excavations for the retrofit project at 146 23rd Avenue is unlikely and, from a geotechnical standpoint, the retrofit project discussed herein can resume. Additionally, we would not expect to see an

underpinning system used to support the adjacent structure given the extent of the excavations discussed herein.

As discussed onsite with the project contractor, we recommend that, after construction of the planned masonry block walls, loose spoils in the overlying area to receive new slab-on-grade be removed to expose competent dune sand deposits and promptly replaced with flowable sand slurry to establish finished subgrade for the new slabs. The thickness of the loose spoils was generally less than 1 foot based on our observations onsite. Project excavations should not extend below the 1 ½:1 plane discussed above.

Our professional services were performed, our findings obtained, and our recommendations prepared in accordance with generally accepted engineering principles and practices used in this area at this time. We make no warranty, express or implied.

Please contact the undersigned with any questions or if we may be of further service.

Sincerely,

GEOCON CONSULTANTS, INC.

Shane Rodacker, GE
Senior Engineer

(1/e-mail) Addressee
(1/email) Monahan Pacific Design Group
Attention: Mr. Tom Monahan