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

Appeal of	Appeal No. <b>22-052</b>
PETER POON,	
Appellant(s)	
VS.	
<u>DEPARTMENT OF BUILDING INSPECTION,</u>	
PLANNING DEPARTMENT APPROVAL Respondent	

## **NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN THAT** on July 18, 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 July 13, 2022 to Kenny and Amy Tseng, of an Alteration Permit (comply with Complaint Nos. 202182981 and 202183006; first floor add bathroom, convert existing exercise and play room to bedroom, office and kitchenette; add interior stair connection between first and second floor at ground floor) at 331 28th Avenue.

#### **APPLICATION NO. 2022/0711/8177**

## FOR HEARING ON August 24, 2022

Address of Appellant(s):	Address of Other Parties:
Peter Poon, Appellant(s) 400 27th Avenue, Apartment No. 4 San Francisco, CA 94121	Kenny and Amy Tseng, Permit Holder(s) c/o Bin Lei, Agent for Permit Holder(s) 1605 Hunt Drive Burlingame, California 94010



Date Filed: July 18, 2022

## CITY & COUNTY OF SAN FRANCISCO BOARD OF APPEALS

# PRELIMINARY STATEMENT FOR APPEAL NO. 22-052

I / We, **Peter Poon**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2022/0711/8177** by the **Department of Building Inspection** which was issued or became effective on: **July 13**, **2022**, to: **Kenny and Amy Tseng**, for the property located at: **331 28th 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 **August 4, 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: <a href="mailto:boardofappeals@sfgov.org">boardofappeals@sfgov.org</a>, julie.rosenberg@sfgov.org, tina.tam@sfgov.org</a> corey.teague@sfgov.org and <a href="mailto:abcadd@sbcglobal.net">abcadd@sbcglobal.net</a>.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **August 18, 2022**, **(no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be doubled-spaced with a minimum 12-point font. An electronic copy shall be emailed to: <a href="mailto:boardofappeals@sfgov.org">boardofappeals@sfgov.org</a>, julie.rosenberg@sfgov.org tina.tam@sfgov.org, corey.teague@sfgov.org and rpoon331@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, August 24, 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 one Thursday prior to hearing date by 4:30 p.m. to <a href="mailto:boardofappeals@sfgov.org">boardofappeals@sfgov.org</a>. 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 <a href="www.sfgov.org/boa">www.sfgov.org/boa</a>. 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:

Arguments will be set forth in the brief.

#### Appellant:

Signature: The Appeal was filed by telephone.

Print Name: Peter Poon, appellant

Report Date: 7/18/2022 11:59:12 AM

Application Number: 202207118177

Form Number:

Address(es): 1405 / 008 / 033128TH AV

COMPLY W/ COMPLAINT 202182981 & 202183006. 1/F: ADD BATHROOM, CONVERT (E) EXERCISE & PLAY ROOM TO BEDROOM, OFFICE & KITCHENETTE. ADD INTERIOR

Description: EXERCISE & PLAY ROOM TO BEDROOM, OFFICE & KITCHE STAIR CONNECTION BETWEEN 1ST & 2ND FL AT G/F.

Cost: \$50,000.00

Occupancy Code: R-3

Building Use: 28 - 2 FAMILY DWELLING

#### **Disposition / Stage:**

<b>Action Date</b>	Stage	Comments
7/11/2022	TRIAGE	
7/11/2022	FILING	
7/11/2022	FILED	
7/13/2022	APPROVED	
7/13/2022	ISSUED	

#### **Contact Details:**

#### **Contractor Details:**

License Number: OWNER
Name: OWNER
Company Name: OWNER

Address: OWNER \* OWNER CA 00000-0000

Phone:

#### **Addenda Details:**

**Description:** 

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	BID- INSP	7/11/22	7/11/22			7/11/22		F CLANCY
2	HIS	7/11/22	7/11/22			7/11/22	LOPEZ JOSE	
3	INTAKE	7/11/22	7/11/22			7/11/22	JINGJING LU	
4	CP-ZOC	7/11/22	7/11/22			7/11/22	ENCHILL CHARLES	7/11/2022: N/A - Interior remodel maintaining two units. 3R Report already authorized two (2) units in 2013. Charles.Enchill@sfgov.org
5	BLDG	7/12/22	7/12/22			7/12/22	LIU STEPHEN	Approved otc
6	MECH	7/13/22	7/13/22			7/13/22	SHAIKH MOHSIN	Approved OTC. Plans returned to the applicant.
7	SFPUC	7/13/22	7/13/22			7/13/22	BRIEN LULU	Capacity Charges N/A, not enough fixtures added to warrant larger meter, plans returned OTC 7/13/2022
8	СРВ	7/13/22	7/13/22			7/13/22	VICTORIO CHRISTOPHER	

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.

# BRIEF SUBMITTED BY THE APPELLANT(S)

# Before the Board of Appeals

# Brief of Appellants Peter Poon and Rocky Poon

**Appeal No.: 22 – 052** 

Appeal Title: Poon vs. DBI, PDA

Subject Property: 331 28th Avenue, San Francisco

Permit Type: Alteration Permit

Permit No.: 2022/0711/8177

Appellants Address: 400 27<sup>th</sup> Ave., Apt. No. 4 San Francisco, CA 94121

## **INTRODUCTION**

This matter arises when the subject property owner and permit holder Kenny Tseng ("Tseng") knowingly ignored the lives of the people by illegally building a whole story structure on the rear third floor of the house in addition to a non-fire resistant deck along the property line on the side of the second floor of the building. All such work was done without permit and the complaint was very specific pinpointing such brazen violations. Yet, Tseng now holds the permit claiming loud and clear that he will cure the complaint. The truth is that this permit is not going to cure any of the noted violations. Therefore, It must be overturned.

### **RELEVANT FACT**

Appellant Peter Poon ("Poon") was one of the tenants in the subject property from 1991 to 2021. By December 2021, Poon and his family was forced to move out of the illegal apartment they called home for 31 years due to Tseng's illegal construction – built and created a big and full story structure on the rear third floor and a non-fire resistant deck on the property line on the side of the second floor – all without permit.

The permit history regarding the subject property are as follows: In 1984, a permit for work on the building valuing at \$326,756 was being sought but it was disapproved and being cancelled in the following year. See **Exhibit 1**. In 1985, after the cancellation of the 1984 permit application, the owner applied another permit for work on the building valuing at only 37,000. The permit Application Number was 8514647. The project was completed in 1987. See **Exhibit 2**.

Since then the building had not had any work on it until after the current owner, Tseng, bought it in 2014. Tseng, in 2018, obtained a permit, application no. 201812128157, descripting the work as (A) remodel existing bathroom and add 1 new bathroom at 3<sup>rd</sup> Floor. (B) add 1 new bathroom at 2<sup>nd</sup> floor at the cost of \$48,000. The project was signed off the next year. See **Exhibit 3**. Tseng used this permit as a shied to remodel the entire second and third floors. Before this permit's issuance, Tseng remodeled and replaced the 3 sides walls on top of the illegal bath at the illegal unit's bathroom.

After that, between 2019 and 2021, construction noises were on going from time to time. We had the reason to believe Tseng was working under a permit because there was a job card posting on the front window at all time until an entire story structure was erected in the rear of the building. In other words, Tseng built among other things an entire story structure in the rear of the 3<sup>rd</sup> floor and a deck on the property line on the side of the 2<sup>nd</sup> floor, between 2019 and 2021, all without permit.

How did we find out Tseng had not obtained a building permit for the expansion and the deck despite the fact that Tseng posted a job card on the front house window during the time of the construction work? Because Tseng did not enforce the foundation after he closed up the rear extension (we knew the foundation was for one story building) and the deck on the property line did not provide a 1 hour fire separation wall, we then checked with the DBI and confirmed that Tseng illegally built that extension, deck, and among other things.

On or about October 2021, after Tseng refused to correct his wrongful action in the unlawful construction of the building, his refusal to perform the needed repairs of the illegal unit, and fear of the building would collapse, we filed an official complaint with the DBI. See **Exhibit 4**.

Inspectors from the DBI did have come to the property and then claim to perform investigation. After seeing no action was taken from the DBI and feared the building would collapse, we were forced to move out the illegal unit we called home for 31 years on or about December 2021.

Instead of doing the right thing to correct his illegal works, Tseng cheated for the subject permit and put people's live in danger.

# **DISCUSSION**

The conditions Tseng created in that house subject of this appeal are nuisance which would endanger the health and life of any person living in that building in violation of California Health, Safety, and Building Codes. The side deck on the second floor on the south side of the property line did not provide 1 hour fire separation thereby created a fire hazard. The 3<sup>rd</sup> floor rear expansion equally created a fire hazard because there was no electrical inspection performed and the substandard electrical wiring would cause fire and the creation of the entire story without any foundation enforcement measure would cause the building to collapse very easily should an earthquake strike.

The subject permit shows how easy Tseng sailed through the process despite the

very specific complaint and obvious violation shown. This must be a pay to play at work.

It is very basic that all floors must be shown on a plan but the Tseng plan provided only 2

floor out of 3. This was not a simple mistake went unnoticed as the work without permit

violation and legalize the illegal unit are inseparable whole procedure. See the

Rule/Procedure for legalize an illegal unit in San Francisco at Exhibit 5.

The third floor rear expansion and the deck without permit are serious violations

and the illegal unit was no longer suit for human occupancy received no violation as well.

Made no mistake, Tseng created these unsafe conditions has successfully forced my family

out of a place called home for the last 31 years on the one hand, and on the other hand,

these nuisance will endanger the life of the people living in that building and the

neighboring buildings as well.

CONCLUSION

Base on the forgoing reasons and others will be presented at the hearing, the Board

should overturn the subject permit.

Dated: August 3, 2022

Respectfully Submitted,

Peter Poon, Appellant

Rocky Poon, Appellant

5

Report Date:

7/28/2022 10:31:22 AM

Application Number: 8400483

Form Number:

Address(es):

1405 / 008 / 0 331 28TH AV

Description:

Cost:

\$326,756.00

Occupancy Code:

le: R-3

Building Use: 28 - 2 FAMILY DWELLING

#### Disposition / Stage:

Action Date	Stage	Comments
1/12/1984	FILED	
10/24/1985	DISAPPROVED	
11/25/1985	CANCELLED	

#### **Contact Details:**

#### **Contractor Details:**

#### Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
o	CP-ZOC					10/21/85	LLM	16.50-	HOLD EXPIRED, SEND NOTICE OF CANCELLATION
0	COUNTER					10/24/85	JR	628- 652- 3780	

#### 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.

Report Date:

7/28/2022 10:32:35 AM

Application Number: 8514647

Form Number:

:

1405 / 008 / 0 331 28TH AV

Address(es): Description:

HORIZONTAL EXTENSION REAR & FRONT

Cost:

\$37,000.00

R-3

Occupancy Code:

Building Use:

28 - 2 FAMILY DWELLING

#### Disposition / Stage:

<b>Action Date</b>	Stage	Comments
12/31/1985	FILED	
5/22/1986	APPROVED	
5/27/1986	ISSUED	
7/9/1987	COMPLETE	

#### **Contact Details:**

**Contractor Details:** 

#### Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
o	BID- INSP					1/6/86		
0	PAD- STR					5/14/86		
0	CP-ZOC					2/13/86		
0	DPW- BSM					5/20/86		

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.

Report Date:

7/9/2022 4:58:11 PM

Application Number:

201812128157

Form Number:

8

Address(es):

1405 / 008 / 0 331 28TH AV 1405 / 008 / 0 333 28TH AV

Description:

1) A)REMODEL EXTG BATHROOM AND ADD 1 NEW BATHROOM AT 3RD FLOOR. B)ADD

1 NEW BATHROOM AT 2ND FLOOR.

Cost:

\$48,000.00

Occupancy Code:

R-3

Building Use:

28 - 2 FAMILY DWELLING

#### Disposition / Stage:

<b>Action Date</b>	Stage	Comments
12/12/2018	TRIAGE	
12/12/2018	FILING	
12/12/2018	FILED	
12/13/2018	APPROVED	
12/13/2018	ISSUED	
6/12/2019	COMPLETE	4841518 Final Inspection/Approved

#### **Contact Details:**

#### **Contractor Details:**

License Number:

817968

Name: Company Name: JASON OWYANG
J P E CONSTRUCTION

Address:

3444 ULLOA ST \* SAN FRANCISCO CA 94116-

0000

Phone:

4155665003

#### Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description		
1	INTAKE	12/12/18	8 12/12/18			12/12/18	SHAWL HAREGGEWAIN			
2	BLDG	12/12/18	12/12/18			12/12/18	MCELROY CAREY			
3	месн	12/12/18	12/12/18			12/12/18	TAN (PETER) JIA JIAN	Approved OTC		
4	SFPUC	12/13/18	12/13/18			12/13/18	CHUNG DIANA	OTC - Capacity Charge not applicable. Not enough additional fixture. Return to Applicar - 12/13/18.		
5	СРВ	12/13/18	12/13/18			12/13/18	SAPHONIA COLLINS			

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:

<b>Activity Date</b>	Inspector	Inspection Description	Inspection Status		
6/12/2019	Michael (Yuet) Chan	FINAL INSPECT/APPRVD	FINAL INSPECT/APPRVD		
3/7/2019	Michael (Yuet) Chan	OK TO COVER	OK TO COVER		

#### **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

**Technical Support for Online Services** 

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

#### COMPLAINT DATA SHEET

Complaint

202182981

Number: Owner/Agent: Owner's Phone:

OWNER DATA SUPPRESSED

Date Filed: Location:

331 28TH AV

Contact Name: Contact Phone:

Block: Lot:

1405 008

Complainant:

COMPLAINANT DATA SUPPRESSED

Site:

Rating: Occupancy Code: Received By:

Division:

**BPEREZ** HIS

Complainant's Phone: Complaint

WEB FORM

Source:

Assigned to Division:

HIS

Description:

date last observed: 12-OCT-21; time last observed: 5 years; identity of person performing the work: Personal; exact location: Basement; building type: Residence/Dwelling INSECTS/RODENTS; DILAPIDATED STRUCTURE; BROKEN APPLIANCES;

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
HIS	MCCARTHY	6301	8	

#### REFFERAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
10/13/21	OTHER BLDG/HOUSING VIOLATION	HIS			Spoke to complainant, scheduled site inspection. LM
10/13/21	CASE OPENED	HIS	MacCartha	CASE RECEIVED	
10/15/21	OTHER BLDG/HOUSING VIOLATION	HIS	McCarthy	PERMIT RESEARCH	
10/15/21	OTHER BLDG/HOUSING VIOLATION	HIS	McCarthy	DDEMICEC	Complaint investigation performed with complainant and property owners present. Permit research required. LM

#### COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

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.

#### COMPLAINT DATA SHEET

Complaint

202183006

Number:

OWNER DATA SUPPRESSED

Date Filed: Location:

331 28TH AV

Owner/Agent: C Owner's Phone: --Contact Name:

Contact Phone:

Block: Lot:

1405 008

Complainant:

COMPLAINANT DATA SUPPRESSED

WEB FORM

Site:

Rating:

Occupancy Code:

Received By:

**AGEE** 

Complainant's Phone: Complaint

Division:

BID

Source:

Assigned to Division:

BID

date last observed: 12-OCT-21; time last observed: 5 years; identity of person performing the work: Personal; exact location: Main Bldg; building type: Residence/Dwelling ILLEGAL UNIT; WORK W/O PERMIT; WORK BEYOND SCOPE OF PERMIT; WORK BEING DONE IN

Description:

DANGEROUS MANNER;

Instructions:

INSPECTOR INFORMATION

DIVISION	INSPECTOR	ID	DISTRICT	PRIORITY
BID	FRANCIS	6380	Year I	

#### REFFERAL INFORMATION

COMPLAINT STATUS AND COMMENTS

DATE	TYPE	DIV	INSPECTOR	STATUS	COMMENT
10/13/21	CASE OPENED	BID	Hartley	CASE RECEIVED	
10/13/21	OTHER BLDG/HOUSING VIOLATION	INS	Tienda	CASE UPDATE	Case reviewed and assigned to complaint investigation team per CM; ag
10/14/21	OTHER BLDG/HOUSING VIOLATION	BID	Tienda	CASE UPDATE	Investigating
10/15/21	OTHER BLDG/HOUSING VIOLATION	BID	Tienda	CASE UPDATE	Performed site inspection. Will schedule meeting with owner of building to verify works performed. Will seek plans for building.
06/24/22	OTHER BLDG/HOUSING VIOLATION	BID	Francis	CASE UPDATE	Left WYWO hanger
07/01/22	OTHER BLDG/HOUSING VIOLATION	BID	Francis	CASE UPDATE	Generated inspection request letter CF
07/06/22	OTHER BLDG/HOUSING VIOLATION	INS	Francis	CASE UPDATE	1st inspection letter mailed;jy
07/11/22	OTHER BLDG/HOUSING VIOLATION	INS	Francis	CASE UPDATE	Inspection Request 2nd Notice mailed per CF/tt
07/11/22	OTHER BLDG/HOUSING VIOLATION	BID	Francis	CASE UPDATE	Generated 2nd inspection request letter. CF
07/14/22	OTHER BLDG/HOUSING VIOLATION	BID	Francis	CASE UPDATE	assigned to district inspector Pa

#### COMPLAINT ACTION BY DIVISION

NOV (HIS):

NOV (BID):

Inspector Contact Information

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.



#### INFORMATION SHEET

NO. G-17

DATE

: August 12, 2016

CATEGORY

: General

SUBJECT

Legalization of Dwelling Units Installed Without a Permit

REFERENCE

: San Francisco Building Code

Administrative Bulletin AB-005: Procedures for Approval of Local Equivalencies Administrative Bulletin AB-028: Pre-application and Pre-addendum Plan review

Procedures

Ordinance No. 43-14

DISCUSSION

.

#### (A) Summary of Ordinance No. 43-14

- 1. Voluntary program that allows one unauthorized dwelling unit per lot that existed prior to January 1, 2013 to pursue legalization with DBI and Planning.
- 2. Units with current Notices of Violation shall be suspended if owner opts to pursue legalization and cleared if the unit is legalized within one year.
- 3. Units that have pursued no-fault evictions with the Rent Board after March 2014 must wait either 5 or 10 years before they may apply for legalization
- Capital improvement costs for legalization cannot be passed through to the tenant occupant, and the owner must provide temporary relocation compensation to the tenant occupant if applicable per Rent Board standards.
- 5. Legalized units cannot pursue subdivision or condo conversion with DPW.

Technical Services Division
1660 Mission Street – San Francisco CA 94103
Office (415) 558-6205 – FAX (415) 558-6401 – www.sfdbi.org

INFORMATION SHEET G-17

#### (B) OWNER ANONYMITY:

Prior to submittal of the screening form to DBI for filing, the applicant may pursue the screening process anonymously. Anonymity is no longer possible after submittal of the screening form to DBI for filing.

#### (C) SCREENING PROCESS:

DBI will provide an initial screening process that is non-binding to help owners understand the estimated costs to legalize before filing an official application. Owners may hire an engineer or design professional or contractor for representation. The owner or professional agent may go to the Unit Legalization Counter on the 1st Floor of 1660 Mission Street to meet informally with DBI Technical Services staff to arrive at a cost estimate. DBI staff may consult with the Fire Department if applicable. Following the screening process, the owner or professional agent may formally apply for legalization with the Planning Department and submit building permit applications with DBI. Electrical and plumbing permits will also be required.

#### (D) SCREENING FORM:

The Screening Form identifies all the building code issues applicable to legalization. The screening form will not be used by the Department in an official capacity.

Attached to the Screening Form is the Checklist requiring floor plans for the entire building and a site plan showing location of all structures on the subject lot; evidence from Water Department, telephone, gas or electric records, written lease agreements, etc. showing dwelling unit to be legalized existed prior to January 1, 2013; assessment/costs prepared by licensed contractor, architect or engineer that outlines compliance plan to meet codes (or any equivalencies DBI and Planning agree upon); etc.

#### (E) FUNDING SOURCES:

DBI will provide information on available funding sources for building code compliance including the CALHOMESF loan from the Mayor's Office of Housing and Community Development. (Also see Attachment B: Checklist item 38)

Page 2 of 22

INFORMATION SHEET G-17

#### (F) DETERMINATION OF EQUIVALENCIES:

Through pre-application meeting (see AB-028) or AB-005, DBI and Fire shall determine whether building code equivalencies are applicable to the various code issues related to legalization.

Director of DBI and Fire Marshall shall determine whether equivalencies from previous building code cycles may apply to facilitate authorization of existing units under Planning Code 207.3, and coordinate with Zoning Administrator in drafting a joint Administrative Bulletin DBI and Planning determine are necessary/helpful to implement this ordinance. Any such AB developed jointly or separately shall be completed within one year of the effective date of this ordinance (May 2015).

#### (G) REPORT TO ASSESSOR:

Legalized units may (or can) increase the property value, and shall be reported to the Assessor when completed, so property taxes may increase as a consequence of legalization. Provide all floor plans (before and after), cost documents and any documents included with application. Final application should be recorded with the Office of the Assessor-Recorder.

#### (H) RENT CONTROL REQUIREMENTS:

If the building where the unit is being legalized is subject to the Rent Ordinance, the legalized unit shall also be subject to the Rent Ordinance.

#### (I) EFFECTIVENESS OF PROGRAM:

Director of DBI and the Zoning Administrator must issue a joint report on the effectiveness of the legalization program six months after the ordinance takes legal effect, and this report must be updated every six months for three years. After this initial 3-year program period, the updated legalization list shall be included in the City's annual housing inventory. The Planning Department shall create and maintain a Master List of authorized/legalized units.

#### (J) MONITORING FEE:

DBI will suspend collection of the \$52 monthly monitoring fee tied to any NOV where the owner has filed an application to legalize one unit, per this ordinance, as an additional incentive to make the owners/public aware of the option to legalize.

Page 3 of 22

# (K) PERMIT PROCESS FOR FILING A BUILDING PERMIT APPLICATION FOR THE FORMAL LEGALIZATION OF THE EXISTING UNAUTHORIZED DWELLING:

The following stamp shall be stamped on "description of work" on the building permit application form:

Unit Legalization Per Ordinance 43-14

CPB staff shall input in the "description of work" in the PTS as follows:

"Legalization of dwelling units installed without a permit per Ordinance No. 43-14."

7 m. C- Hi		1/13/11
Tom C. Hui, S.E., C.B.O., Director	0	Date /
Department of Building Inspection	V *	
John Rahailm, Director Planning Department		7/15/6 Date
Soul & Dlen		8/3/16
Daniel deCossio		Date

Robert Collins Rent Board

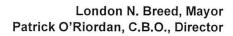
Fire Marshal

None Board

#### Attachments:

- A. Screening form
- B. Checklist

This Information Sheet is subject to modification at any time. For the most current version, visit our website at http://www.sfdbi.org





# Legalization of Dwelling Units Installed Without a Permit

SCREENING FORM - No fee to file

The Screening Form shall be completed by a California licensed architect, civil or structural engineer or contractor. Submittal of this Screening Form is to summarize the evaluation performed on the building and to identify code issues related to the legalization of existing unauthorized dwelling units under Ordinance No. 43-14.

#### Submit the completed Screening Form (with the supporting documents) either:

- As a pdf attachment to <u>unitlegalization@sfgov.org</u> with "Unit Legalization Screening Submittal" in subject line; **or**
- As a hardcopy by U.S. mail to: 49 South Van Ness Avenue, Suite 500 San Francisco, CA 94103 Attn: Technical Services

BLO	CK / LOT NUMBER					
ADD	RESS					
CON	ITACT (OWNER OR AGE	NT)				
	SECTION 1 – ADMINISTRATIVE INFORMATION					
Cont	act Name	Contact Telephone	Contact Email			
Cont	act Mailing Address					
SEC		TATION OF EXISTING UN	NAUTHORIZED DWELLING ED CODE ISSUES			
	Attach floor plans for the	entire building to demonstrate	egress or other code issues			
	, .	owing the location of existing b ecations of adjacent streets or	uildings, other structures on the alleys.			
		*	hitect or engineer that outlines ubject to approval by DBI, Fire			

Identification of code issues:			Estimated cost for compliance:	
		9		
	water and the second			
	<u> </u>			
	<del>-</del>			
	**************************************			
Total estimated cost fo	r compliance			
	•	-		
<ul> <li>Owner also to provide evidence from lease agreements, etc. showing dwell</li> </ul>				n
Previously approved Permit Application			Original construction documents	
Previously approved Plan			Water Department bill	
Certificate of Final Completion			Telephone bill	
Written Lease Agreement			Gas or Electric records	
			Other	

## SECTION 3 - DESIGN PROFESSIONAL/CONTRACTOR & OWNER AFFIDAVIT

Under penalty of perjury, the Design Professional/Contractor certifies that the information provided and the Owner/Agent certifies that the information provided in Section 1 of this section are correct to the best of their knowledge.

5.1. Design Professional:	[Professional Stamp Here]
Date stamped and signed	
(NOTE: In lieu of stamp, Contractor shall provide license number and expiration date)	
Firm Name	
Design Professional Telephone Design Professional Email	
5.2. Owner / Agent:	
	wner gent
Signature Date	<b>3</b> 0
FOR DBI USE ONLY	
DBI has received the materials submitted and filed under "Legaliza dwelling units installed without a permit".	tion of
Further discussions on code issues and equivalencies on complian via pre-application meetings or Administrative Bulletin AB-005.	ce will be
Date received by DBI	

# [This Page Intentionally Left Blank]



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

# ATTACHMENT B Legalization of Dwelling Units Installed Without a Permit Checklist

The intent of this Checklist is to provide a general guideline for the legalization of dwelling units installed without a permit. This checklist may not cover all code issues related to the legalization process.

#### Referenced Codes:

- San Francisco Building Code (SFBC)
- San Francisco Existing Building Code (SFEBC)
- San Francisco Planning Code
- San Francisco Fire Code (SFFC)
- San Francisco Mechanical Code (SFMC)
- San Francisco Plumbing Code
- San Francisco Electrical Code (SFEC)
- San Francisco Energy Code
- California Historical Building Code (CHBC)

<sup>\*</sup> Code section referenced is SFBC unless noted otherwise.

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
1.	Applicable codes shall be SF Building Code (SFBC), San Francisco Existing Building Code (SFEBC), SF Mechanical Code (SFMC), SF Electrical Code (SFEC), SF Plumbing Code, SF Energy Code (SFEC), and SF Planning Code, SF Fire Code (SFFC) and California Historical Building Code (CHBC).			

	Code Requirements	Code	Cost for	Remark
		Section	Compliance	
2.	Rent Board Verification. Ordinance No. 43-14 states that the Planning Department must verify that certain no-fault evictions have not occurred within certain time frames. The applicant shall check whether or not they meet those criteria. If such an eviction has occurred within the limited timeframe, the legalization may not be processed, even if the unauthorized unit could otherwise meet the Building Code requirements. The Planning Department will verify that information with the Rent Board during the permit review process.			
3.	A dwelling unit is a room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen. A housekeeping room as defined in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of this Code, a live/work unit shall not be considered a dwelling unit.	Planning Code Sections 102.7 & 102.13		
4.	Landscaping. Pursuant to Planning Code Section 132, 20 percent of the front setback area shall be remain unpaved and devoted to plant material, including the use of climate appropriate plant materials. Please indicate compliance with this requirement on the plans. A link to the Guide to the San Francisco Green Landscaping Ordinance is below:  http://www.sf-planning.org/ftp/files/publications_reports/Guidelegeto_SF_Green_Landscaping_Ordinance.pdf	Planning Code Section 132		
5.	Permeability. Pursuant to Planning Code Section 132, the front setback area shall be at least 50 percent permeable so as to increase stormwater infiltration. The permeable surface	Planning Code Section 132		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
其前以			1800年第二屆開業	
	may be inclusive of the area counted towards			
	the landscaping requirement; provided,			
	however, that turf pavers or similar planted			
	hardscapes shall be counted only toward the			
	permeable surface requirement and not the			
	landscape requirement. Please indicate			
	compliance with this requirement on the plans.			
	A link to the Guide to the San Francisco Green			
	Landscaping Ordinance is below:			
	http://www.sf-			
	planning.org/ftp/files/publications reports/Guid			
	e to SF Green Landscaping Ordinance.pdf			
6.	Street Tree. When a dwelling unit is proposed,	Planning		
	including legalizing an illegal dwelling unit, the	Code Section		
	property must comply with the street tree	138		
	requirements. One tree of 24-inch box size is			
	required for each 20 feet of frontage of the			
	property along each street or alley, with any			
	remaining fraction of 10 feet or more of			
	frontage requiring an additional tree. Such			
	trees shall be located either within a setback			
	area on the lot or within the public right-of-way			
	along such lot. This property is required to			
	provide one street tree. Please indicate			
	compliance with this requirement on the plans.			
	¥			
7.	Street Tree Referral. Prior to Planning			
	Department approval, you must obtain a referral			
	form Department of Public Works (DPW). DPW			
	determines whether or not required trees can			
	feasibly be planted. Please bring to the following			
	to DPW: (1) a completed Tree Planting and			
	Protection Checklist, (2) project plans [11"x17"			
	is acceptable] and (3) a DPW tree planting			
	application. Submittals can be made to DPW's			
	offices at 1155 Market St or electronically at			
	www.sfdpw.org -> "Services A-Z" -> "Trees".			

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	After doing their analysis and fieldwork, DPW will provide the applicant with a signed referral form with their determination which should then be provided to Planning staff. Planning staff cannot approve the building permit application without the referral form from DPW. This information may be submitted directly to Kate Conner at the Planning Department, 1650 Mission Street, 4th Floor. The Tree Protection and Planting checklist is linked below: <a href="http://sf-planning.org/modules/showdocument.aspx?documentid=8321">http://sf-planning.org/modules/showdocument.aspx?documentid=8321</a>			
8.	Bicycle Parking. When a dwelling unit is proposed, including legalizing an illegal dwelling unit, the property must comply with bicycle parking requirements. In order to legalize an illegal unit per Planning Code Section 207.3, bicycle parking spaces must be provided on-site in a secure, weather protected space meeting dimensions set in Zoning Administrator Bulletin No. 9, easily accessible to residents and not otherwise used for automobile parking or other purposes. Each space is required to be 2'-0" by 6'-0. An area devoted to bicycle parking must be shown on the plans. A link to Zoning Administrator Bulletin No. 9 is below: <a href="http://www.sf-planning.org/ftp/files/publications reports/ZABBicycleParking 9-7-13.pdf">http://www.sf-planning.org/ftp/files/publications reports/ZABBicycleParking 9-7-13.pdf</a>	Planning Code Section 155		
9.	Provide floor plans for the entire building to demonstrate exiting and other issues. The Floor Plans must show all existing rooms adjacent to the dwelling unit to be legalized. Label the use of each room.			

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
10.	Provide Site (Plot) Plan: Show the location of existing buildings, other structures on the site, property lines and locations of adjacent streets or alleys.			
	<ul> <li>Show dimensions between dwelling unit walls and property lines.</li> <li>Show the direction of true North.</li> </ul>			
11.	Provide evidence from Water Department, telephone, gas or electric records, written lease agreements, etc. Showing dwelling unit to be legalized existed prior to Jan. 1, 2013			
12.	Minimum ceiling heights. Occupiable spaces, habitable spaces and corridors shall have a ceiling height of not less than 7 feet 6 inches.	1208.2		
13.	Bathrooms, toilet rooms, kitchens, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet.	1208.2		
14.	Ceiling height. The means of egress shall have a ceiling height of not less than 7 feet 6 inches.	1003.2		
15.	Foundation slab needs to be lowered if (12) (13) or (14) are not met.			
16.	Minimum room widths. Habitable spaces, other than a kitchen, shall be not less than 7 feet in any plan dimensions. Kitchens shall have a clear passageway of not less than 3 feet between counter fronts and appliances or counter fronts and walls.	1208.1		
17.	Room area. Every dwelling unit shall have no less than one room that shall have not less than	1208.3		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	120 square feet of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet.			
	<b>Exception:</b> Kitchens are not required to be of a minimum floor area.			
18.	Efficiency Dwelling Units.  Unless modified by local ordinance pursuant to Health and Safety Code Section 17958.1, efficiency dwelling units shall comply with the following:	1208.4	÷ .	
	<ol> <li>The unit shall have a living room of not less than 150 square feet of floor area.</li> <li>An additional 100 square feet of floor area shall be provided for each occupant of such unit in excess of two.</li> </ol>			
	The unit shall be provided with a separate closet.			
	<ol> <li>The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.</li> </ol>			
	<ol> <li>The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.</li> </ol>			
19.	Private garages and carports Separation. Separations shall comply with the following: (1) The private garage shall be separate from the dwelling unit and its attic area by means of gypsum board, not less than 5/8-inch in thickness, applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than a 5/8-inch (15.9 mm) Type X gypsum board or	406.3.4.		

West Section	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	equivalent and ½-inch (12.7 mm) gypsum board applied to structures supporting the separation from habitable rooms above the garage. Door openings between a private garage and the dwelling unit shall be equipped with either solid wood doors or solid or honeycomb core steel doors not less than 1.3/8inches in thickness or doors in compliance with Section 716.5.3 with a fire protection rating of not less than 20 minutes. Openings from a private garage directly into a room used for sleeping purpose shall not be permitted. Doors shall be self-closing and self-latching.  (2) Ducts in a private garage and ducts penetrating the walls or ceiling separating the dwelling unit, including its attic area, from the garage shall be constructed of sheet steel of not less than 0.019 inches, in thickness, and shall have no openings into the garage.  (3) A separation is not required between a Group R-3 and U carport, provided the carport is entirely open on two or more sides and there are not enclosed areas above.			
20.	Fire-resistance rating.  Horizontal assemblies separating dwelling units in the same building and horizontal assemblies separating sleeping units in the same building shall be a minimum of 1-hour fire-resistance-rated construction.	711.3		
21.	Noise Insulation Enforcement Procedures.  APPLICABILITY.  The noise requirements apply only to residential use buildings for which permits were applied after August 22, 1974, i.e. to Form 1 and 2 applications. They do not apply to buildings constructed before 1974 in which	Administrative Bulletin AB-026		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	new units are created through alterations, additions or change of use.			
22.	Section 1030 Emergency Escape and Rescue	1030		
	1030.1 General. In addition to the means of egress required by this chapter, provisions shall be made for emergency escape and rescue openings in Group R occupancies. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement.	Information Sheet No. EG-03		
	Such openings shall open directly into a public way or to a yard or court that opens to a public way.			
	Exceptions:			
	<ol> <li>In Groups R-1 and R-2 occupancies constructed of Type I, Type IIA, Type IIIA or Type IV construction equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1.</li> </ol>			
	<ol> <li>Basements with a ceiling height of less than 80 inches (2032 mm) shall not be required to have emergency escape and rescue openings.</li> </ol>			
	<ol> <li>Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior exit balcony that opens to a public way.</li> </ol>			

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	4. Basements without habitable spaces and having not more than 200 square feet (18.6 m²) in floor area shall not be required to have emergency escape and rescue openings.			
	<b>1030.2 Minimum size</b> . Emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet (0.53 m <sup>2</sup> ).			
	Exception: The minimum net clear opening for grade-floor emergency escape and rescue openings shall be 5 square feet (0.46 m <sup>2</sup> ).			
	1030.2.1 Minimum dimensions. The minimum net clear opening height dimension shall be 24 inches (610 mm). The minimum net clear opening width dimension shall be 20 inches (508 mm). The net clear opening dimensions shall be the result of normal operation of the opening.			
	1030.3 Maximum height from floor. Emergency escape and rescue openings shall have the bottom of the clear opening not greater than 44 inches (1118 mm) measured from the floor.			
	(For R3, also see Information Sheet no. EG-03)			
23.	Landings shall have a width not less than the width of the stairway or the door, whichever is greater. Doors in the fully open position shall not reduce a required dimension by more than 7 inches (178 mm). Where a landing serves an occupant load of 50 or more, doors in any position shall not reduce the landing less than one-half its required width. Landings shall have a length measured in the direction of travel not less than 44 inches (1118 mm).	1010.1.6		

			Estimated	
	Code Requirements	Code	Cost for	Remark
		Section	Compliance	
24.	Habitable rooms (excluding kitchens, home	1205.1		2月2日2日日本
	offices and media rooms) within a dwelling unit	Exception		
	or congregate residence shall be provided with			
	natural light by means of exterior glazed			
	openings in accordance with Section 1205.2.			
25.	Natural light. The minimum net glazed area	1205.2		
	shall be not less than 8% of the floor area of	1205.2.1		
	the room served.			
	Adjoining spaces. For the purpose of natural			
	lighting, any room is permitted to be considered			
	as a portion of an adjoining room where one-			
	half of the area of the common wall is open and			
	unobstructed and provides an opening of not less than one-tenth of the floor area of the			
	interior room or 25 square feet, whichever is			
	greater.			
26.	Stairways within dwelling units and exterior	1205.4		
	stairways serving a dwelling unit shall have an illumination level on tread runs of not less than			
	1 foot-candle.			
27.	The openable area of the openings to the	1203.5.1		
	outdoors shall be not less than 4 percent of the floor area being ventilated.			
	noor area being ventuated.			
28.	Enclosed attic & enclosed rafter spaces shall	1203.2		
	have cross ventilation not be less than 1/150 of			
	the area of the ventilated space. A minimum of 1" airspace shall be provided between			
	insulation and the roof sheathing.			
	_			
29.	Garage and carports.	406.3.7		
	Ventilations shall be provided as follows:			
	Natural ventilations shall be required, and such			
	space shall be provided with ventilation outlets			

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
	in the walls or exterior doors. The total net area			
	of such ventilation outlets shall be 200 square inches for a space up to 1,000 square feet in			
	area and shall be increased 30 square inches			
	for each additional 200 square feet of floor area			
	up to maximum floor area of 3,000 square feet.			>
30.	Indicate the location of attic access.			
31.	Sleepers and sills on a concrete or masonry slab that is in direct contact with earth shall be of naturally durable or preservative-treated wood.	2304.12.1.4		
32.	Wood framing members, including wood sheathing, that are in contact with exterior foundation walls and are less than 8 inches (203 mm) from exposed earth shall be of naturally durable or preservative-treated wood.	2304.12.1.2		
33.	Exiting through the garage area shall meet all requirements of Administrative Bulletin AB-020.	AB-020		
34.	Fire-resistance rating requirement for exterior walls based on fire separation distance shall meet requirements of Table 602.	Table 602		
35.	Openings is exterior walls shall comply with Sections 705.8.1 through 705.8.6.	705.8		
36.	Approval of New Openings in New and Existing Building Property Line Walls shall meet requirements of Administrative Bulletin AB-009.	AB-009		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
37.	Bathrooms. Rooms containing bathtubs, showers, spa and similar bathing fixtures shall be mechanically ventilated in accordance with the California Mechanical Code.	1203.5.2.1		
38.	Energy Conservation. Qualified historical buildings or properties covered by this part are exempted from compliance with energy conservation standards.	CHBC Section 8- 901.5		
39.	Access Compliance. All publicly funded buildings used for congregate residences or for one- or two-family dwelling unit purposes shall conform to the provisions applicable to living accommodations.	1.9.1.1.3 Chapters 11A & 11B		
40.	Carbon monoxide alarms.  When a permit is required for alterations, repairs or additions with a total cost or calculated valuation exceeding \$1,000, existing dwellings or sleeping units with a fossil fuel-burning heater or appliance, fireplace or an attached garage shall have a carbon monoxide alarm installed in accordance with Section 420.6.2. Carbon monoxide alarms shall only be required in the specific dwelling unit or sleeping unit for which the permit was obtained.	420.6.2.2		
41.	Smoke alarms: When the valuation of an addition, alteration or repair to a Group R Occupancy exceeds \$1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, smoke alarms shall be installed in accordance with Section 907.	SFBC Section 3401.8.1 or; SFEBC Section 401.5		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
42.	Preliminary review by Plumbing Inspection Division. Call 558-6570 as required.	San Francisco Plumbing Code		
43.	Preliminary review by Electrical Inspection Division. Call 558-6570 as required.	San Francisco Electrical Code		
44.	School Impaction Fee Administration. The California State Legislature had amended School Facilities Fees legislation and exempts any residential addition of less than 500 square feet.	Information Sheet No. G-11		
45.	17912. Rules and regulations promulgated pursuant to the provisions of this part and building standards published in the State Building Standards Code, relating to the erection or construction of buildings or structures, shall not apply to existing buildings or structures or to buildings or structures as to which construction is commenced or approved prior to the effective date of the rules, regulations, or building standards, except by act of the Legislature, but rules, regulations, and building standards relating to use, maintenance, and change of occupancy shall apply to all hotels, motels, lodging houses, apartment houses, and dwellings, or portions thereof, and buildings and structures accessory thereto, approved for construction or constructed before or after the effective date of such rules, regulations, or building standards.	California Health and Safety Code Section 17912		

	Code Requirements	Code Section	Estimated Cost for Compliance	Remark
46.	Assessor-Recorder's Office: Legalized units shall be reported to the Assessor when completed for applicable property tax assessment. Under State law, the Assessor is responsible for establishing a taxable value on property located in the City & County of San Francisco. A property that legalizes a unit under this program may be subject to an increase in the assessed value depending on whether the building was originally purchased with the existing illegal in-law unit and the extent to which new construction occurs to bring the unit into compliance. Please contact the Assessor's Office with additional questions: call 311 or visit assessor@sfgov.org.			
47.	Other.			

# PERMIT(S) HOLDER DID NOT SUBMIT A BRIEF