

***Regular Meeting of the
Building Inspection Commission***

October 16, 2024

Agenda Item 5

Department's Submittal



Department of Building Inspection Response to Appellant's Pre-Hearing Statement

The Department of Building Inspection (DBI) hereby submits the following response to Tad Nguyen's (Appellant) Pre-Hearing Statement.

1237 Shafter Street (Complaint No. 202288508)

On March 11, 2022, Complaint No. 202288508 was opened based on a field observation of demolition at a property located at 1237 Shafter St. A Notice of Violation (NOV) was issued (*see Exhibit A*) on the same day citing the following:

Demolition beyond scope of approved plans. Existing rear 2 story addition has been demolished. Approved plans show addition between gridlines 2-4 to be saved.

Permit Application (PA) No. 202203150077 was filed on March 15, 2022 specifying the following:

TO COMPLY WITH NOV #202288508 ON PA #201809281772. Demo of previously approved rear addition to be constructed in same footprint, no change to approved height. Relocate stair at rear 30%. Move rear wall location.

The appellant was the contractor of record, and the permit was approved and issued on May 5, 2022. All work was completed, and a final inspection was conducted on February 8, 2023. Complaint No. 202288508 was then subsequently closed.

There is no dispute that the appellant performed the demolition work of the rear addition of the property. Appellant stated in his Pre-Hearing Statement, "*During this process, we discovered that no footing was properly established/installed. As a result, we needed to redo and rebuild the footing. This involved breaking up part of the existing structure. A complaint was made that this was done without a permit – this is untrue because a permit was approved for this specific demolition.*" DBI has no record of a permit filed for the demolition of the existing rear 2 story addition prior to the issuance of NOV # 202288508. PA No. 202203150077 was specifically filed on March 15, 2022 to address the NOV regarding



the unpermitted demolition. So, appellant is correct that there was a permit approved for this specific demolition, but it was filed after he performed the demolition work and after the issuance of the NOV. Additionally, prior approved plans required the rear addition between gridlines 2-4 to be saved. Appellant demolished the entire rear addition to the ground. Therefore, the demolition work performed by appellant was done without a requisite demolition permit as well as beyond the scope of prior approved plans.

1239 Shafter Street (Complaint No. 202288535)

On March 14, 2022, Complaint No. 202288535 was opened based on a field observation of construction work at a property located at 1239 Shafter St. A NOV was issued (*see Exhibit B*) on the same day citing the following:

Site inspection has revealed excavation at east and west property lines beyond scope of approved permits. Both sides excavated at PL below neighbors footing removing lateral support. West side also underpinned neighbors footing at 2 sections w/out approved revision. Shoring permit not obtained per plans.

Appellant is correct that 1239 Shafter St. is one of the units in the same building as 1237 Shafter St. Appellant argues “... this is part of the unit above and thus should not constitute a second complaint but rather part of the first one. It would be improper for me to be penalized twice for one project.” DBI agrees that the work was for one project. However, NOV #202288508 was a separate violation regarding the demolition work of the rear addition for 1237 Shafter St. NOV #202288535 was issued as a separate violation for excavation work performed under permits filed under 1239 Shafter St. PA No. 201712055597 was filed back in December 5, 2017, to legalize a dwelling unit on the first floor per Ordinance 43-14. The permit was not issued until March 9, 2022, and the appellant was listed as the contractor of record. Appellant performed excavation work to both the east and west sides of the



property lines removing lateral supports to the neighbors footing. The excavation work was beyond the scope of approved permit. PA No. 201712055597 clearly stated that the building was to be shored up under a separate permit. There was no shoring permit obtained as required and noted on the cover sheet and on the foundation details of the existing plans. All work was completed under PA No. 201712055597, a final inspection was performed, and Certificate of Final Completion (CFC) was issued on February 8, 2023. Therefore, the complaint was subsequently closed.

1600 Thomas Ave. (Complaint No. 202297682)

On October 21, 2022, Complaint No. 202297682 was opened based on a report of construction work beyond the scope of permit at a property located at 1600 Thomas St. A NOV was issued (*see Exhibit C*) on October 31, 2022 citing the following:

Following a complaint and subsequent site visit, it has been discovered that work has exceeded beyond PA #2022-1024-5021. Two rear yard stair/deck structures have been demolished and rebuilt with a new configuration. Both fences along public right of way at Lane St and Thomas Av have been demolished and rebuilt to approximately 6 feet high.

The only active permit at the time of the violation was PA #202210245021, which was filed and issued on October 24, 2022. The permit called for “*Complete painting overlay ¼” ext wood paneling over existing pt. plywood for painting less than 100 SQFT.*” Appellant was the listed contractor of record for this permit, and the scope was limited to painting. Therefore, all the other construction work that was being performed exceeded the scope of that permit. PA #202212027559 was subsequently filed to remedy the cited violations as follows:

COMPLY W/ BID NOV 202297682 DATED 10/31/2022, RETROACTIVE PERMITS FOR EXTERIOR STAIRS AND FENCE.



Appellant was the contractor of record under this permit as well, which was approved and issued on March 23, 2023. The work under PA #202212027559 was completed, and a final inspection was performed on April 10, 2023. Therefore, the complaint was subsequently closed.

Appellant now argues that he “... was *NOT* the contractor to build/create these structures. Instead, they were already almost fully built by a prior contractor or the owner and I was hired to try to resolve some of the conflicts/NOV.” This is the first time DBI has been made of aware of this claim from the appellant. DBI cannot confirm the validity of appellant’s statements. Our records revealed that our Housing Inspection Services (HIS) division performed a lead abatement inspection on October 14, 2022. A Housing NOV was issued on October 20, 2022 regarding lead abatement violations. HIS noticed ongoing construction work on the property without a permit and actually witnessed the appellant performing the work. So, HIS referred it to our Building Inspection Division (BID), and Complaint No. 202297682 was opened to investigate. BID believes that the construction work was being performed by the appellant given that PA #202210245021 was the only active permit at the time, the appellant was the named contractor on record, and they were actively performing work on the premises. DBI had no other information to rely on regarding evidence of another contractor or even the owner performing the cited construction work that led to the violations, which the appellant is now alleging.



352 Head Street (Complaint No. 202309896)

On June 26, 2023, Complaint No. 202309896 was opened based on an observation of defective construction work at a property located at 352 Head St. A NOV was issued (*see Exhibit D*) on June 27, 2023, citing the following:

Following a site visit to 350 Head St., it was observed that framing has begun at 352 Head St. The entire ground floor has been framed and 2nd floor exterior walls have been framed and stood up. Approved plans have the exterior walls – the current walls do not have the required 5/8 Type X sheetrock and blind wall was not inspected.

The only active permit at the time of the violation was PA #202101192885, which was filed on January 19, 2021. The description of the scope of work stated, “*TO ERECT 3 STORIES, TYPE V, TWO-DWELLING UNIT (1 of 2 unit ADU)*”. The appellant was listed as the contractor of record. The permit was approved and issued on September 1, 2022. There were no rough framing inspections performed prior to the issuance of the NOV. The NOV cited it as an unsafe condition, required the appellant to stop all work, and to “*Deconstruct walls and install required 5/8” Type X sheetrock to achieve 1 HR exterior wall assembly. Call for inspection before reinstalling exterior walls.*” PA #202306270997 was subsequently filed on June 27, 2023 to address the violation described as follows: “*TO COMPLY WITH NOV #202309896 – REPAIR COMPLETED AND FIELD INSPECTED BY K. BIRMINGHAM AND M. HERNANDEZ ON 12/21/2023.*” All work was completed under both PA #202101192885 and PA #202306270997, a final inspection was performed, and a CFC was issued by June 27, 2024. The complaint was subsequently closed on June 28, 2024.

Appellant first argues that he did not call for the inspection on June 26, 2024, and that the inspector “was supposed to be inspection 350 Head Street and not 352 Head Street.” Appellant believes the NOV was premature and improper because they were not completely done with the construction of the walls. DBI has the authority to cite any observed code violation in the course of performing inspections whether



it be at the property during a scheduled inspection or an observed adjacent property with unsafe conditions. Additionally, the plywood sheeting on the property line walls at the 1st and 2nd floors were framed without any DBI inspection to determine if it was installed correctly. Furthermore, DBI did not have the opportunity to inspect the blind walls. So, even if appellant was not completely done with the construction of the walls, DBI needed to conduct an inspection to verify code compliance before he raised the walls.

Appellant also argues that *"Secondly, the inspector did not know that we already obtained a sprinkler permit from the fire department. Thus, because of this sprinkler permit, the 5/8 Type X wall was not required. This would be in excess and not needed per the planning department."* This permit was originally approved requiring both sprinkler permit and the 5/8" Type X sheetrock. So, regardless of the appellant obtaining a sprinkler permit, the original plans also called for 5/8" Type X sheetrock to achieve 1 hr. exterior wall assembly. Appellant was required to construct according to the approved plans.

Conclusion

Appellant has incurred 3 or more qualifying violations within an 18-month period as detailed above. DBI respectfully requests that the Notice of Determination for appellant's inclusion on the Expanded Compliance Control (ECC) list be upheld.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick O'Riordan".

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

Exhibit A

1237 Shafter St NOV



NOTICE OF VIOLATION

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

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

NUMBER: 202288508
DATE: 10-MAR-22

ADDRESS: 1237 SHAFTER AV
OCCUPANCY/USE: ()

BLOCK: 4792 LOT: 025

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

OWNER/AGENT: REID AMANDA
MAILING REID AMANDA
ADDRESS 1237 SHAFTER AVE
SAN FRANCISCO CA

PHONE #: --

94124

PERSON CONTACTED @ SITE:

PHONE #: --

VIOLATION DESCRIPTION:

CODE/SECTION#
103A
106A.4.7
106A.4.4; 106A.3.7
102A.1

- WORK WITHOUT PERMIT
- ADDITIONAL WORK-PERMIT REQUIRED
- EXPIRED OR CANCELLED PERMIT PA#:
- UNSAFE BUILDING SEE ATTACHMENTS

Demolition beyond scope of approved plans. Existing rear 2 story addition has been demolished. Approved plans show addition between gridlines 2-4 to be saved.
Code/Section: SFBC 106A.4.7

Monthly monitoring fee applies.
Code/Section: SFBC 110A, Table 1A-K

CORRECTIVE ACTION:

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

● FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.
SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Stop all work associated with 201809281772. Obtain revision permit with DCP approval documenting all changes from original approved plans. Obtain all required inspections on revision permit including corresponding Plumbing and Electrical.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

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

APPROX. DATE OF WORK W/O PERMIT 10-MAR-22 VALUE OF WORK PERFORMED W/O PERMITS \$20000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Philip Saunders
PHONE # 628-652-3608
By:(Inspector's Signature) _____

DIVISION: BID

DISTRICT : 11

Exhibit B

1239 Shafter St NOV



NOTICE OF VIOLATION

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

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

NUMBER: 202288535
DATE: 14-MAR-22

ADDRESS: 1239 SHAFTER AV
OCCUPANCY/USE: ()

BLOCK: 4792 LOT: 025

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

PHONE #: --

OWNER/AGENT: REID AMANDA
MAILING REID AMANDA
ADDRESS 1237 SHAFTER AVE
SAN FRANCISCO CA

94124

PERSON CONTACTED @ SITE:

PHONE #: --

VIOLATION DESCRIPTION:

CODE/SECTION#
103A
106A.4.7
106A.4.4; 106A.3.7
102A.1

- WORK WITHOUT PERMIT
 ADDITIONAL WORK-PERMIT REQUIRED
 EXPIRED OR CANCELLED PERMIT PA#:
 UNSAFE BUILDING SEE ATTACHMENTS

Site Inspection has revealed excavation at east and west property lines beyond scope of approved permits. Both sides excavated at PL below neighbors footing removing lateral support. West side also Underpinned neighbors footing at 2 sections w/out approved revision. Shoring permit not obtained per plans.

Code/Section: SFBC 106.4.7

Monthly monitoring fee applies.
Code/Section: SFBC 110A, Table 1A-K

CORRECTIVE ACTION:

- STOP ALL WORK SFBC 104.2.4
- FILE BUILDING PERMIT WITHIN 15 DAYS (WITH PLANS) A copy of This Notice Must Accompany the Permit Application
- OBTAIN PERMIT WITHIN 30 DAYS AND COMPLETE ALL WORK WITHIN 60 DAYS, INCLUDING FINAL INSPECTION SIGNOFF.
- CORRECT VIOLATIONS WITHIN DAYS. NO PERMIT REQUIRED
- YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.

● FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.
SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Obtain evaluation and direction from a licensed professional engineer and submit to DBI within 48 hours. File for and obtain Revision permits and inspections as required.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

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

APPROX. DATE OF WORK W/O PERMIT VALUE OF WORK PERFORMED W/O PERMITS \$20000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Philip Saunders
PHONE # 628-652-3608

DIVISION: BID

DISTRICT : 11

By:(Inspectors's Signature) _____

Exhibit C

1600 Thomas Ave NOV



NOTICE OF VIOLATION

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

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

NUMBER: 202297682
DATE: 31-OCT-22

ADDRESS: 1600 THOMAS AV
OCCUPANCY/USE: R-3 (RESIDENTIAL- 1 & 2 UNIT DWELLINGS, TOWNHOUSES) BLOCK: 5359 LOT: 013

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

OWNER/AGENT: MADISON MAVERICK H
MAILING: MADISON MAVERICK H
ADDRESS: 1629 SHAFTER AVE
SAN FRANCISCO CA

PHONE #: --

94124

PERSON CONTACTED @ SITE: MADISON MAVERICK H

PHONE #: --

VIOLATION DESCRIPTION:

CODE/SECTION#
103A
106A.4.7
106A.4.4; 106A.3.7
102A.1

- WORK WITHOUT PERMIT
- ADDITIONAL WORK-PERMIT REQUIRED
- EXPIRED OR CANCELLED PERMIT PA#:
- UNSAFE BUILDING SEE ATTACHMENTS

Following a complaint and a subsequent site visit, it has been discovered that work has exceeded beyond PA# 2022-1024-5021. Two rear yard stair/deck structures have been demolished and rebuilt with a new configuration. Both fences along public right of way at Lane St and Thomas Av have been demolished and rebuilt to approximately 6 feet high.

Code/Section: 106.1.1, 106.4.7, 106.4.4, 107.1

CORRECTIVE ACTION:

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

File for a new building permit with accurate separate existing and proposed plans. City planning department review will be required on this permit.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

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

APPROX. DATE OF WORK W/O PERMIT 17-OCT-22 VALUE OF WORK PERFORMED W/O PERMITS \$25000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Jonathan Chiu

PHONE # 628-652-3646

DIVISION: BID

DISTRICT : 11

By:(Inspector's Signature) _____

Exhibit D

352 Head St NOV



NOTICE OF VIOLATION

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

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

NUMBER: 202309896
DATE: 27-JUN-23

ADDRESS: 352 HEAD ST
OCCUPANCY/USE: ()

BLOCK: 7116 LOT: 048

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

PHONE #: --

OWNER/AGENT: KIM NGUYEN
MAILING: KIM NUGYEN
ADDRESS: 456 URBANO DRIVE
SAN FRANCISCO
CA 94127

PERSON CONTACTED @ SITE:

PHONE #: --

VIOLATION DESCRIPTION:

	CODE/SECTION#
<input type="checkbox"/> WORK WITHOUT PERMIT	103A
<input type="checkbox"/> ADDITIONAL WORK-PERMIT REQUIRED	106A.4.7
<input type="checkbox"/> EXPIRED OR <input type="checkbox"/> CANCELLED PERMIT PA#:	106A.4.4; 106A.3.7
<input checked="" type="checkbox"/> UNSAFE BUILDING <input checked="" type="checkbox"/> SEE ATTACHMENTS	102A.1

Following a site visit to 350 Head St, it was observed that framing has begun at 352 Head St. The entire ground floor has been framed and 2nd floor exterior walls have been framed and stood up. Approved plans have the exterior walls - the current walls do not have the required 5/8 Type X sheetrock and blind wall was not inspected.
Code/Section: SFBC 108A.7.1

Monthly monitoring fee applies.
Code/Section: SFBC 110a Table 1A-K

CORRECTIVE ACTION:

STOP ALL WORK SFBC 104.2.4

- FILE BUILDING PERMIT WITHIN DAYS (WITH PLANS) A copy of This Notice Must Accompany the Permit Application
- OBTAIN PERMIT WITHIN DAYS AND COMPLETE ALL WORK WITHIN DAYS, INCLUDING FINAL INSPECTION AND SIGNOFF.
- CORRECT VIOLATIONS WITHIN 15 DAYS. NO PERMIT REQUIRED
- YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.

● FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.
SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Deconstruct walls and install required 5/8" Type X sheetrock to achieve 1 HR exterior wall assembly. Call for inspection before reinstalling exterior walls.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

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

APPROX. DATE OF WORK W/O PERMIT VALUE OF WORK PERFORMED W/O PERMITS \$

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Kevin T Birmingham
PHONE # 628-652-3606

DIVISION: BID

DISTRICT :

By:(Inspectors's Signature) _____