



# SAN FRANCISCO PLANNING DEPARTMENT

## Discretionary Review Abbreviated Analysis HEARING DATE: JUNE 28, 2012

*Date:* June 21, 2012  
*Case No.:* 2011.0116D  
*Project Address:* 1490 FRANCISCO STREET  
*Permit Application:* 2010.1206.6199  
*Zoning:* RH-3 [Residential House, Three-Family]  
40-X Height and Bulk District  
*Block/Lot:* 0472/020  
*Project Sponsors:* Maxwell Beaumont (agent / architect)  
Beaumont + Associates  
4050 Harlan Street  
Emeryville, CA 94608  
Christina McNair & Donna Santana (property owners)  
1490 Francisco Street  
San Francisco, CA 94123  
*Staff Contact:* Sharon M. Young – (415) 558-6346  
[Sharon.M.Young@sfgov.org](mailto:Sharon.M.Young@sfgov.org)  
*Recommendation:* **Do not take DR and approve as proposed**

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### PROJECT DESCRIPTION

The current proposal is to (1) legalize the existing roof deck (approximately 27 feet wide by 12 feet deep) located above the one-story garage located within the required rear yard; (2) add a new deck (approximately 23 feet wide by 15 feet deep) on the roof of the four-story, 12-unit apartment building located within the buildable area of the lot; and (3) add new and modify existing fire escapes / pathways to meet the current Fire Code requirements for the proposed roof decks (which will have 42" high open railing around their perimeters). The garage structure is wholly or partially located within the required rear yard and is therefore considered a legal noncomplying structure. (The project sponsor modified the design of their original plans to legalize the existing roof deck since it was not meeting the Fire and Planning Code requirements, and later decided to add a new deck on the roof of the four-story building. The project sponsor's draft revised plans had included solid railings and a privacy screen above the existing garage roof deck to address the DR Requestors' concerns but were later eliminated; these plan modifications would have required rear yard and noncomplying structure variances from the Planning Code.)

### SITE DESCRIPTION AND PRESENT USE

The project site is located at 1490 Francisco Street, on the northeast corner of Francisco and Octavia Streets; Lot 020 in Assessor's Block 0472 in an RH-3 (Residential, House, Three-Family) Zoning District and a 40-X Height and Bulk District. The 5,000 square foot subject lot measures 50 feet wide by 100 feet deep. The subject building is an approximately 39-foot tall, four-story, 12-unit residential building constructed in 1924. The existing building is not listed in the

Planning Department’s 1976 Architectural Survey (AS survey) or the National or California Registers as having architectural significance.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The subject property is located in the Marina neighborhood. The neighborhood is within an RH-3 Zoning District with predominantly single and multi-family dwellings units. Most of the buildings on the subject and opposite block are three-to-four stories in height and constructed in the mid 1920’s.

**BUILDING PERMIT NOTIFICATION**

TYPE	REQUIRED PERIOD	NOTIFICATION DATES	DR FILE DATE	DR HEARING DATE	FILING TO HEARING TIME
10-day Notice	10 days	May 3, 2012 – May 14, 2012 January 25, 2011 – February 4, 2011	February 4, 2012	June 28, 2012	145 days

The proposal required a 10-day notice for adding a deck onto a noncomplying structure, per the Zoning Administrator’s interpretation of Planning Code Section 188 made in February, 2008. The original proposal was noticed from January 25, 2011 to February 4, 2011 and re-noticed May 3, 2012 to May 14, 2012 after plan modifications were made to the original scope of work of the project.

**HEARING NOTIFICATION**

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	June 18, 2012	June 18, 2012	10 days
Mailed Notice	10 days	June 18, 2012	June 15, 2010	13 days

**PUBLIC COMMENT**

	SUPPORT	OPPOSED	NO POSITION
Adjacent neighbor(s)	--	11	--
Other neighbors on the block or directly across the street	--	31	--
Neighborhood groups	--	--	--
Petition		43	

The adjacent neighbors are concerned that the roof deck above the one-story garage proposes significant privacy, light, air, noise, and odor issues. The DR Requestors have also contacted

Supervisor Mark Farrell's office and submitted a petition and letters in opposition to the Planning Department with regard to their concerns about the garage roof deck and indicated that approval of the proposed project would set a negative precedent to allow other similar types of development in the Marina District.

## **DR REQUESTOR**

The DR Request was filed by Kim Meyer, on behalf of the 1468 Francisco Street Homeowners Association, directly adjacent and east of the project site.

## **DR REQUESTOR'S CONCERNS AND PROPOSED ALTERNATIVES**

See attached *Discretionary Review Application*, dated June 18, 2012.

## **PROJECT SPONSOR'S RESPONSE TO DR APPLICATION**

See attached *Response to Discretionary Review*, dated May 24, 2012.

## **ENVIRONMENTAL REVIEW**

The Department has determined that the proposed project is exempt/excluded from environmental review, pursuant to CEQA Guideline Section 15301 (Class One - Minor Alteration of Existing Facility, (e) Additions to existing structures provided that the addition will not result in an increase of more than 10,000 square feet).

## **RESIDENTIAL DESIGN TEAM REVIEW**

The Residential Design Team (RDT) reviewed the request for Discretionary Review and found that the proposal does not create exceptional or extraordinary circumstances since the DR Requestors' property line windows immediately adjacent to the garage roof deck appear to be secondary windows which are not transparent and are significantly above the garage roof deck, and would have a similar effect if the existing deck was located at grade. In addition, property line windows are not protected under the Residential Design Guidelines or the Planning Code.

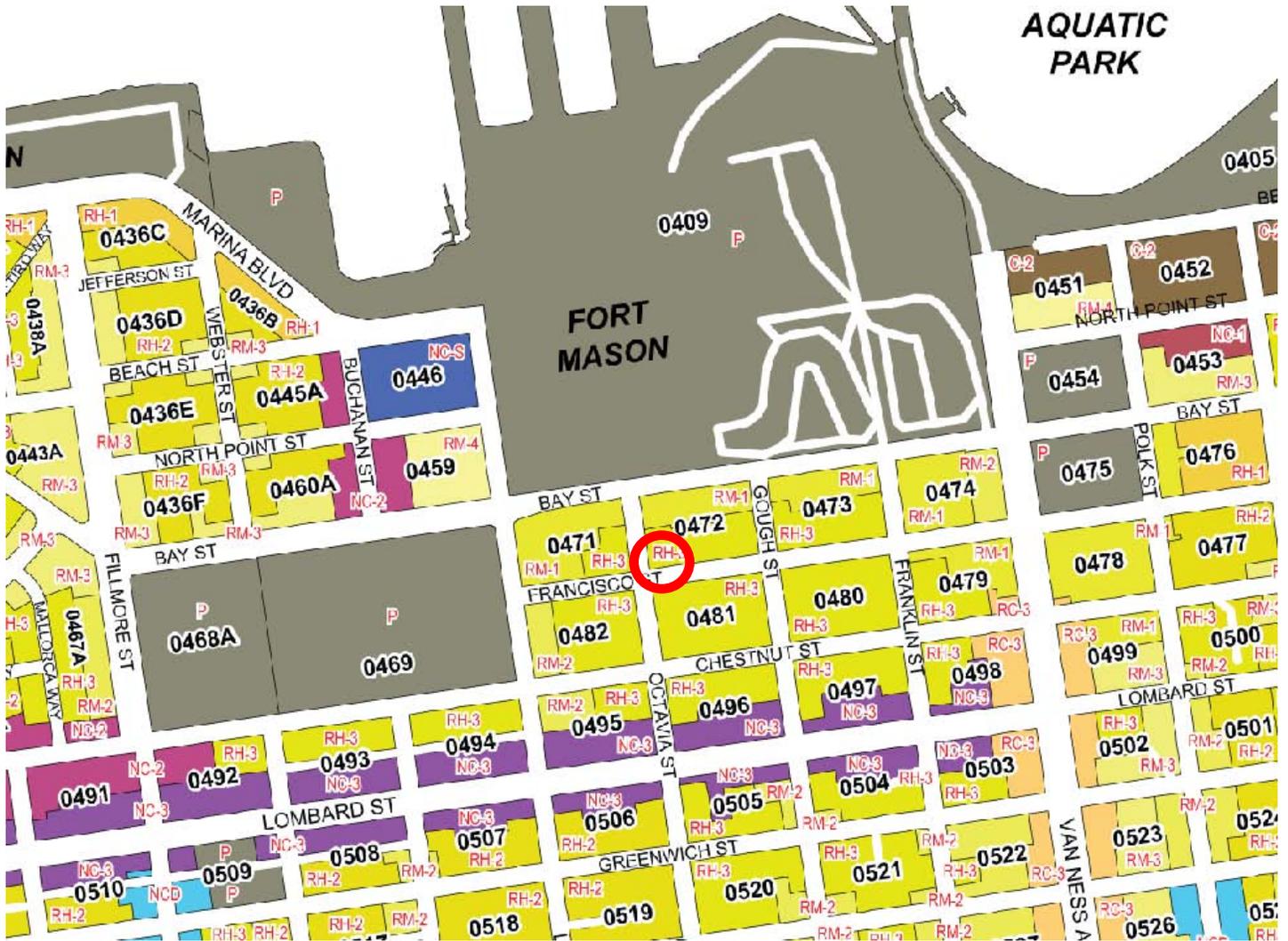
**Under the Commission's pending DR Reform Legislation, this project would not be referred to the Commission as this project does not contain or create any exceptional or extraordinary circumstances.**

<b>RECOMMENDATION:</b>	<b>Do not take DR and approve project as proposed</b>
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### **Attachments:**

Block Book Map  
Sanborn Map  
Zoning Map  
Aerial Photographs  
Context Photographs  
10-Day Notices  
DR Application  
Response to DR Application dated 5/24/12  
Reduced Plans

# Zoning Map



Discretionary Review Hearing  
Case Number 2011.0116D  
1490 Francisco Street

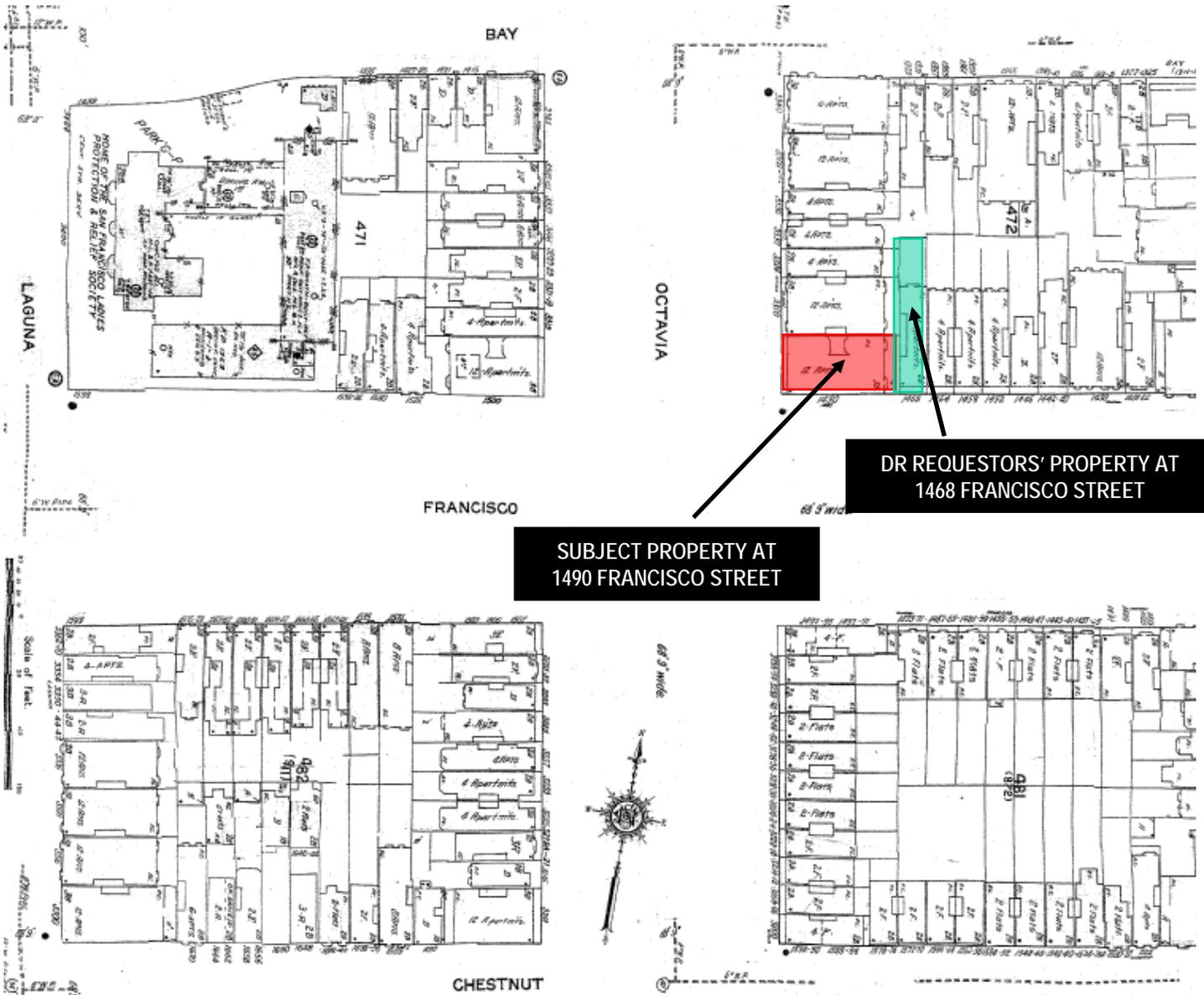


# Parcel Map



Discretionary Review Hearing  
Case Number 2011.0116D  
1490 Francisco Street

# Sanborn Map\*



**DR REQUESTORS' PROPERTY AT  
1468 FRANCISCO STREET**

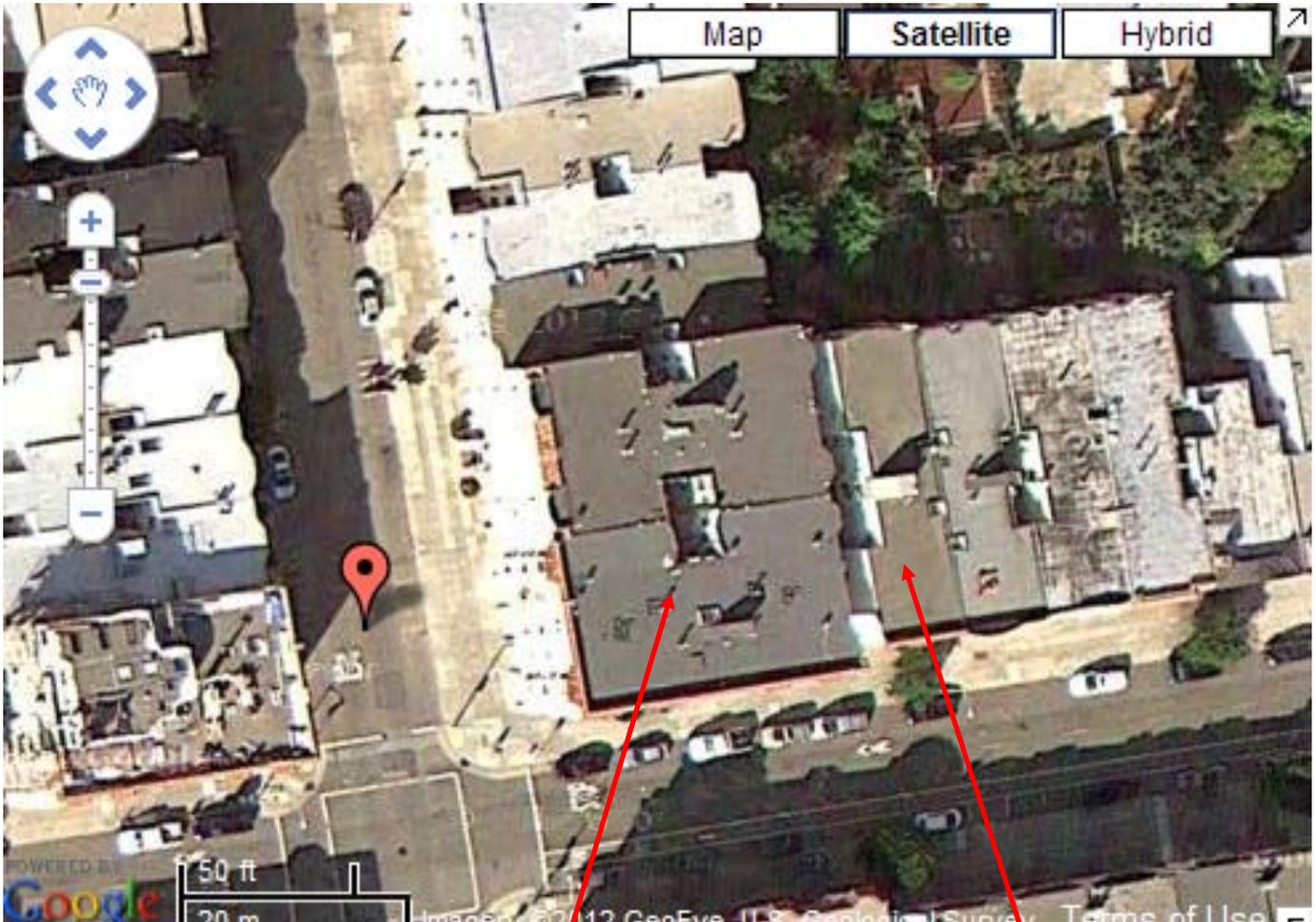
**SUBJECT PROPERTY AT  
1490 FRANCISCO STREET**

\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

Discretionary Review Hearing  
Case Number 2011.0116D  
1490 Francisco Street



# Aerial Photo\*



SUBJECT PROPERTY AT  
1490 FRANCISCO STREET

DR REQUESTORS' PROPERTY AT  
1468 FRANCISCO STREET



# Aerial Photo\*



SUBJECT PROPERTY AT  
1490 FRANCISCO STREET

DR REQUESTORS' PROPERTY AT  
1468 FRANCISCO STREET



# Aerial Photo\*



DR REQUESTORS' PROPERTY AT  
1468 FRANCISCO STREET

SUBJECT PROPERTY AT  
1490 FRANCISCO STREET



Discretionary Review Hearing  
Case Number 2011.0116D  
1490 Francisco Street

# Aerial Photo\*



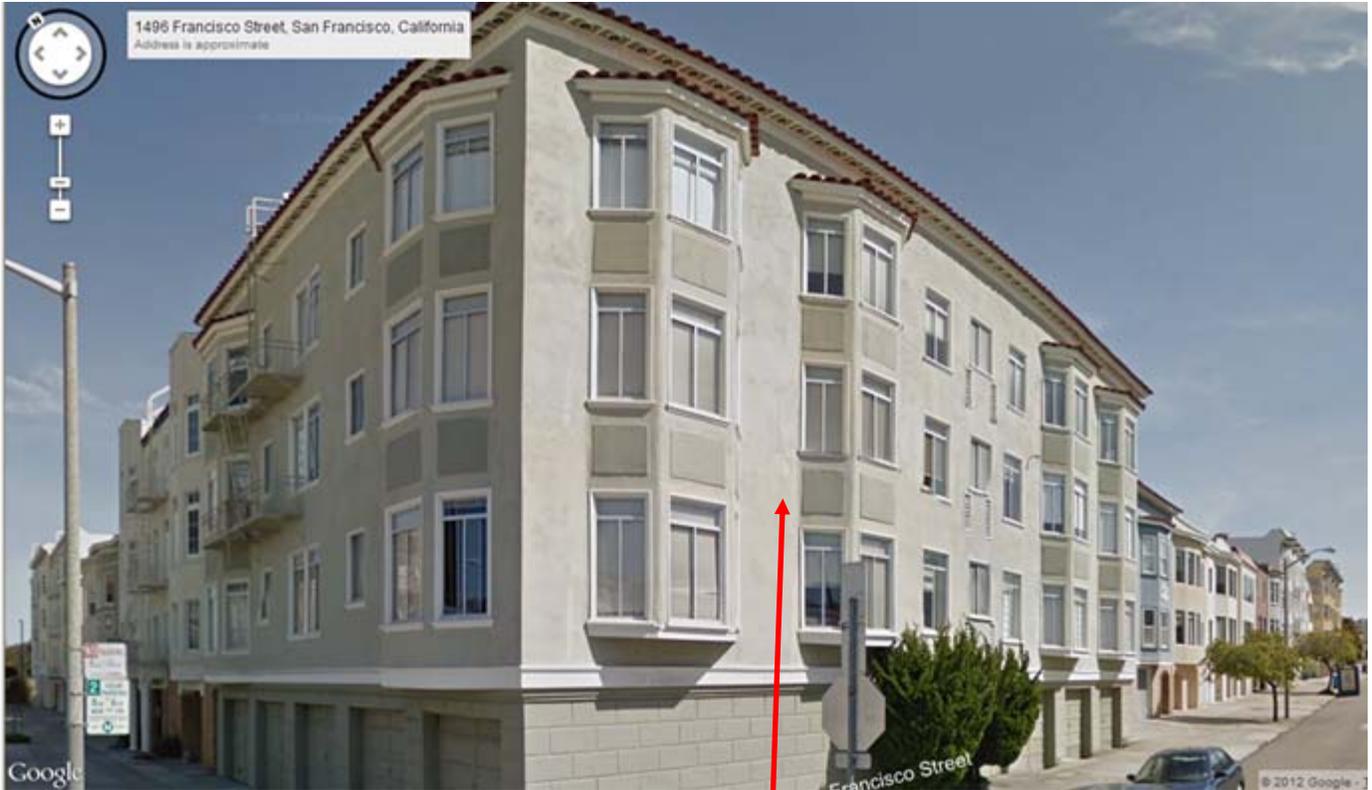
SUBJECT PROPERTY AT  
1490 FRANCISCO STREET

DR REQUESTORS' PROPERTY AT  
1468 FRANCISCO STREET



# Site Photo

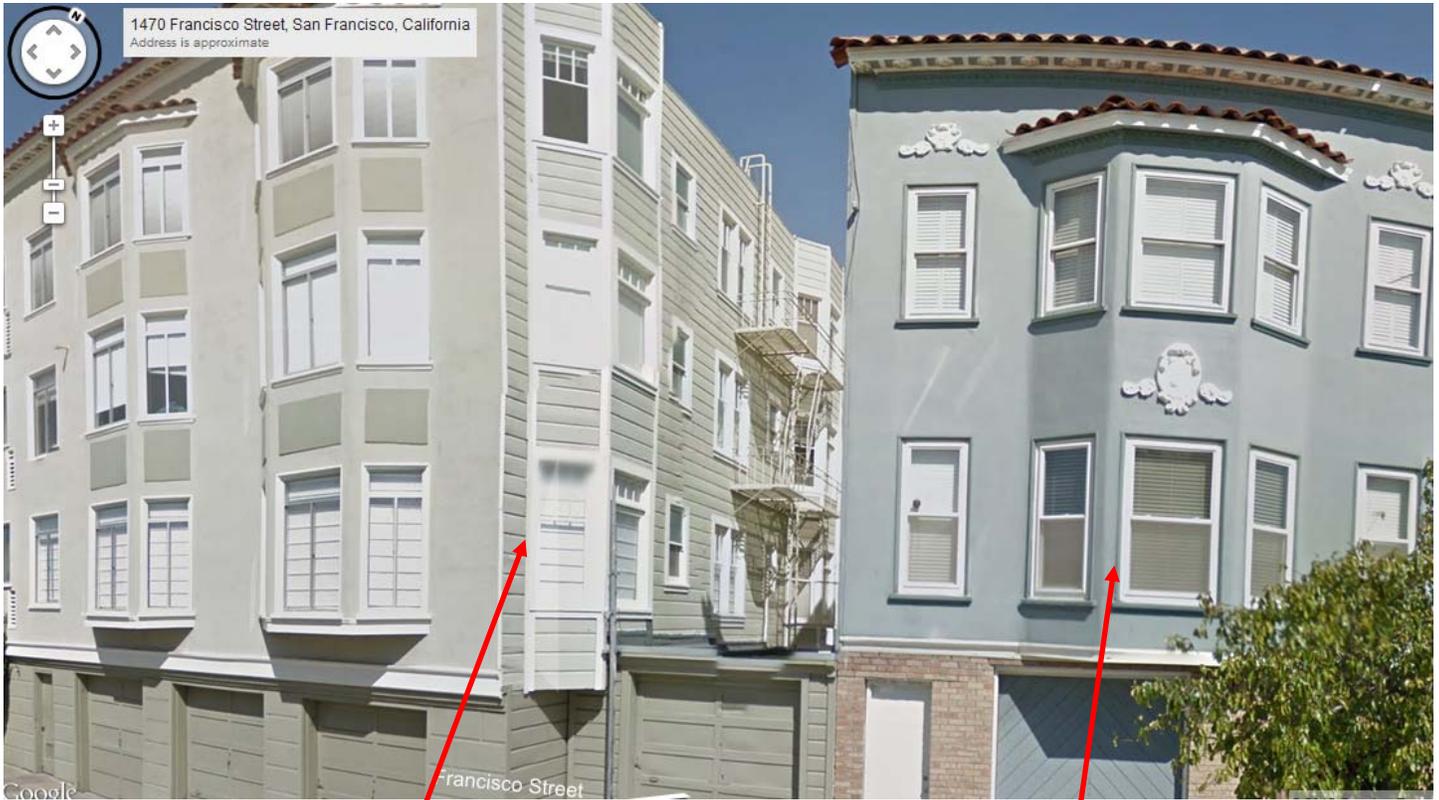
SUBJECT PROPERTY CORNER OF OCTAVIA & FRANCISCO STREET



SUBJECT PROPERTY AT  
1490 FRANCISCO STREET

Discretionary Review Hearing  
Case Number 2011.0116D  
1490 Francisco Street

# Site Photo



**SUBJECT PROPERTY AT  
1490 FRANCISCO STREET**

**DR REQUESTOR'S PROPERTY AT  
1468 FRANCISCO STREET**

Discretionary Review Hearing  
**Case Number 2011.0116D**  
1490 Francisco Street

# Site Photo



**SUBJECT PROPERTY AT  
1490 FRANCISCO STREET**

**DR REQUESTOR'S PROPERTY AT  
1468 FRANCISCO STREET**

Discretionary Review Hearing  
**Case Number 2011.0116D**  
1490 Francisco Street



# SAN FRANCISCO PLANNING DEPARTMENT

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## Notice of Proposed Approval Deck on a Noncomplying Structure

January 25, 2011

To Whom It May Concern:

**RE: 1490 Francisco Street #3** (Address of Permit Work)  
**0472/020** (Assessor's Block/Lot)  
**2010.12.06.6199** (Building Permit Application Number)

This letter is to inform you that the Planning Department received a Building Permit Application to legalize the construction of a roof deck on a noncomplying structure for the property located at 1490 Francisco Street. This letter serves as the required 10-day notice for adding decks onto noncomplying structures, per the Zoning Administrator's interpretation of Planning Code Section 188 made in February, 2008.

The proposed scope of work is to legalize the existing roof deck located above the garage at the rear of the property. The existing roof deck (approximately 27 feet wide by 12 feet deep) covers the entire one-story portion of the garage structure and extends to the rear property line. The garage structure is wholly or partially located within the required rear yard and is therefore considered a legal noncomplying structure. The scope of work will also involve modifying an existing window to a door on the 2<sup>nd</sup> floor of the building (east elevation). No expansion of the garage or the building envelope is proposed under this permit.

If you would like to review the associated plans or have any questions about this application, please contact the assigned planner for this project, Sharon M. Young, at (415) 558-6346 or [sharon.m.young@sfgov.org](mailto:sharon.m.young@sfgov.org) within 10 days from the date of this letter. This project will be approved by the Planning Department if no request for Discretionary Review is filed by the end of the 10-day noticing period, February 4, 2011.

Sincerely,

Sharon M. Young, Planner  
NW Team

1650 Mission St.  
Suite 400  
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# SAN FRANCISCO PLANNING DEPARTMENT

## Notice of Revised Proposal

### Deck on a Noncomplying Structure

May 3, 2012

**RE: 1490 Francisco Street** (Address of Permit Work)  
**0472/020** (Assessor's Block/Lot)  
**2010.12.06.6199** (Building Permit Application Number)

1650 Mission St.  
Suite 400  
San Francisco,  
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This letter is to inform you that the Planning Department has received plan revisions to the above-referenced Building Permit Application to legalize the existing roof deck (approximately 27 feet wide by 12 feet deep) located above the one-story garage at the rear of the property. The garage structure is wholly or partially located within the required rear yard and is therefore considered a legal noncomplying structure. The original scope of work also involves modifying an existing window to a door on the 2<sup>nd</sup> floor of the building (east elevation). A notice as required per the Zoning Administrator's interpretation of Planning Code Section 188 (February 2008) for adding decks onto noncomplying structures was mailed on January 25, 2011 and the 10-day period expired on February 4, 2011. There is a request for Discretionary Review filed on the original proposal under Case No. 2011.0116D. The project sponsor has submitted plan revisions to include the following: (1) new and modified fire escapes / pathways since the original proposal was not meeting the Fire Code requirements; and (2) addition of a second new roof deck (23 feet wide by 15 feet deep) above the existing four-story, 12-unit apartment building located within the buildable area of lot; and (3) 42" high open railing around the perimeter of the proposed roof decks to meet the Planning Code requirements.

If you would like to review the associated plans or have any questions about this application, please contact the assigned planner for this project, Sharon M. Young, at (415) 558-6346 or [sharon.m.young@sfgov.org](mailto:sharon.m.young@sfgov.org) within 10 days from the date of this letter. This project may be approved by the Planning Department if the request for Discretionary Review under Case No. 2011.0116D is withdrawn and there are no new requests for Discretionary Review filed for the revised proposal by the end of the 10-day noticing period, May 14, 2012 (prior to close of business).

Sincerely,

A handwritten signature in black ink that reads "Sharon M. Young".

Sharon M. Young

Planner, Northwest Quadrant

cc: Maxwell Beaumont (architect / agent)

Donna Santana (owner)

DR Requester respectfully requests that the Planning Commission deny permitting both the Pied-à-terre garage deck which faces the street and the TIC Roof Deck.

Approval of these decks will create a dangerous precedent for such decks all over the Marina.

There is no need for either of these decks.

The Planning Commission should not reward owners, who remove affordable rental housing stock from the market by threatening the eviction of renters, with code exceptions which financially benefit these owners.

Please see attached Map for location of proposed decks and opposed neighbors.



# APPLICATION FOR Discretionary Review Application

## 1. Owner/Applicant Information

DR APPLICANT'S NAME:		
1468 Francisco St. Homeowners Assoc. - See Attach. A, Contact Kim Meyer		
DR APPLICANT'S ADDRESS:	ZIP CODE:	TELEPHONE:
1468 Francisco St. Apt. 1, San Francisco, CA	94123	(415) 986 1988
PROPERTY OWNER WHO IS DOING THE PROJECT ON WHICH YOU ARE REQUESTING DISCRETIONARY REVIEW NAME:		
Max Beaumont Agent for Donna Santana - owner 1490 Francisco St, SF CA 94123		
ADDRESS:	ZIP CODE:	TELEPHONE:
4050 Harlan St., Emeryville, CA	94608	(510) 652 5111
CONTACT FOR DR APPLICATION:		
Same as Above <input type="checkbox"/> Kim A. Meyer		
ADDRESS:	ZIP CODE:	TELEPHONE:
1468 Francisco St. Apt. 1 San Francisco, CA	94123	(415) 986 1988
E-MAIL ADDRESS:		
kim@meyerassoc.net		

## 2. Location and Classification

STREET ADDRESS OF PROJECT:		ZIP CODE:		
1490 Francisco Street, San Francisco CA		94123		
CROSS STREETS:				
Francisco and Octavia				
ASSESSORS BLOCK/LOT:	LOT DIMENSIONS	LOT AREA (SQ FT):	ZONING DISTRICT:	HEIGHT/BULK DISTRICT:
0472 / 020	50ft x 100ft	5,000	RH-3	40-X

## 3. Project Description

Please check all that apply

Change of Use  Change of Hours  New Construction  Alterations  Demolition  Other 

**Additions to Building:** Rear  Front  Height  Side Yard

Present or Previous Use: Originally intended uninhabited space/fire escape for 12 unit building on garage roof

Proposed Use: Street facing second floor deck Plus 345 sq ft 4<sup>th</sup> floor Roof Deck

Building Permit Application No. 201012066199

Date Filed: 12/06/2010

4. Actions Prior to a Discretionary Review Request

Prior Action	YES	NO
Have you discussed this project with the permit applicant?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you discuss the project with the Planning Department permit review planner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Did you participate in outside mediation on this case?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Changes Made to the Project as a Result of Mediation

If you have discussed the project with the applicant, planning staff or gone through mediation, please summarize the result, including any changes there were made to the proposed project.

Please see attachment B

We worked extensively with Planning Staff, the owners and Architect of Permit Applicant along with our Consulting Structural Engineer, Pat Buscovich, for over a year. Planning denied all changes agreed and requested by the parties.

## Discretionary Review Request

In the space below and on separate paper, if necessary, please present facts sufficient to answer each question.

1. What are the reasons for requesting Discretionary Review? The project meets the minimum standards of the Planning Code. What are the exceptional and extraordinary circumstances that justify Discretionary Review of the project? How does the project conflict with the City's General Plan or the Planning Code's Priority Policies or Residential Design Guidelines? Please be specific and site specific sections of the Residential Design Guidelines.

Please see Attachment C

2. The Residential Design Guidelines assume some impacts to be reasonable and expected as part of construction. Please explain how this project would cause unreasonable impacts. If you believe your property, the property of others or the neighborhood would be adversely affected, please state who would be affected, and how:

Please see Attachment D

3. What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?

Please see Attachment E

## Applicant's Affidavit

Under penalty of perjury the following declarations are made:

- a: The undersigned is the owner or authorized agent of the owner of this property.
- b: The information presented is true and correct to the best of my knowledge.
- c: The other information or applications may be required.

Signature: \_\_\_\_\_



Date: \_\_\_\_\_

6/17/2012

Print name, and indicate whether owner, or authorized agent:

Kim A. Meyer Owner and Authorized Agent

Owner / Authorized Agent (circle one)

## Discretionary Review Application Submittal Checklist

Applications submitted to the Planning Department must be accompanied by this checklist and all required materials. The checklist is to be completed and signed by the applicant or authorized agent.

REQUIRED MATERIALS (please check correct column)	DR APPLICATION
Application, with all blanks completed	<input checked="" type="checkbox"/>
Address labels (original), if applicable	<input checked="" type="checkbox"/>
Address labels (copy of the above), if applicable	<input checked="" type="checkbox"/>
Photocopy of this completed application	<input checked="" type="checkbox"/>
Photographs that illustrate your concerns	<input checked="" type="checkbox"/>
Covenant or Deed Restrictions	<input checked="" type="checkbox"/>
Check payable to Planning Dept.	<input checked="" type="checkbox"/>
Letter of authorization for agent	<input checked="" type="checkbox"/>
Other: Section Plan, Detail drawings (i.e. windows, door entries, trim), Specifications (for cleaning, repair, etc.) and/or Product cut sheets for new elements (i.e. windows, doors)	<input checked="" type="checkbox"/>

## NOTES:

 Required Material. Optional Material. Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only

Application received by Planning Department:

By: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment A

### Discretionary Review Application Page 7, Number 1: Owner/Applicant Information

#### **1468 Francisco Street Homeowners Association consists of:**

Ben Lazzareschi, President & Owner 1468 Francisco Street Apt. 4, San Francisco 94123,  
Tel: 415 810 8546

Sashi Gopaul, Vice President & Owner 1468 Francisco Street Apt. 2, San Francisco 94123,  
Tel: 908 872 0996, Address: 285 Third Street, Apt 809 Cambridge MA 02142

Natalie DelagnesTalbot, Secretary & Owner 1468 Francisco Street Apt. 3, San Francisco 94123,  
Tel: 415 420 1091, Address: 35 Cranleigh Drive, San Francisco, CA 94132

Kim Meyer, Treasurer & Owner 1468 Francisco Street Apt. 1, San Francisco 94123,  
Tel: 415 986 1988

## Attachment B

### Discretionary Review Application Page 8, Question 5

#### Changes Made to the Project as a Result of Mediation

Note that originally, Permit Applicant proposed only one deck. Now they have presented additional plans and are requesting two decks:

- a) The building owner's private "**Pied-a-terre Garage Deck**" which is the 196 sq ft. deck proposed to be built on top of the one story non-complying garage directly adjacent to the east property line of 1468 Francisco Street (the property of the DR Requesters), and
- b) The "**TIC Roof Deck**", the 345 sq. ft. TIC owner deck proposed to be built on top of the 44.8 foot high roof RH-3 (maximum height limited to 40 feet) 4 story 1490 Francisco Street building serving all 12 units of the recently TIC'd 1490 Francisco Street apartment building.

The TIC Roof Deck has been added since the original DR was filed. (See Exhibit 1 for plans for both decks and Exhibit 2 for additional photos):

**Site of Street Facing Pied-a-terre deck**



**View from mid 1400 Francisco block**



**We have spent the better part of the last two years and had numerous conversations and meetings with SF Planning, 1490 Francisco Street owners ("Permit Applicant") and their Architect trying to arrive at a mutually agreeable solution regarding the Pied-a-terre Garage Deck. At one point we had plans and a letter agreement which all had agreed to sign, but Planning disallowed everything we agreed to.**

1. The construction of the Pied-a-terre Garage Deck started in July 2010 with the non-permitted, illegal removal of part of an original bay window and replacement with a door opening onto the garage roof to create an illegal deck on an unsafe, non-code compliant structure which violated fire code by blocking the egress of the fire escapes on that side of the building. This unpermitted deck is directly next to the bedroom window of Unit 1 of 1468 Francisco street and all bedroom and kitchen windows of the 4 units of 1468 Francisco Street. Therefore, we complained to DBI and a notice of violation was issued in July 2010. A second notice was issued again October 2010. (See Notices of Violation and picture of violation- Exhibit 3 & 4).

2. We received a 10 day notice of plans to legalize the Pied-a-terre Deck January 25, 2011 requiring us to file the DR Application by February 4, 2011. We reached out to Permit Applicant/owner, Donna Santana on January 31, 2011 to discuss things before the DR application was due, but she said she did not have time to meet with us.
3. We again reached out to schedule a site meeting with one of the Owners and Permit Applicants (Christina McNair – a real estate agent) and their Architect. This meeting occurred in early March. In this meeting we voiced concerns about privacy, light, air and noise, but these were largely rejected. Our consulting structural engineer, Pat Buscovich, pointed out a number of fire code issues and suggested that the Architect meet with the Fire Department to rectify these issues. This was documented in a March 10, 2011 letter copied to Planning.
4. We never received a response, but were contacted by Planning on May 13, 2011 that new plans had been submitted. We reviewed the plans and though some fire code changes were made, it still was not compliant with fire code, and no changes had been made to address our concerns.
5. Our Structural Engineer met with the Architect on June 7, 2011 to discuss plans and process.
6. We reached out to 1490 Francisco Street Building and pied-a-terre unit owner Donna Santana on June 21, 2011 and agreed to set up meeting with the Architect to discuss solutions. The parties met July 21, 2011 and had productive discussions regarding sight and sound barriers. New drawings were received 8/3/2011 including many sight, sound barrier features. Intensive discussion and drafting of a letter agreement regarding the Pied-a-terre Garage Deck started beginning of August including agreed restrictions on hours of use, noise, barbeques, and animals on the deck.
7. By end of August/early September we had reached an agreement regarding the Pied-a-terre Garage Deck and had completed plans to modify that deck and enclose it in a combination of wooden fence with lattice and opaque plexi-glass to a height of 66 inches with a solid wooden parapet of 48 inches facing Francisco Street to provide privacy, noise, sight, barriers. The agreement also established some rules regarding animals, hours of use, fire protection, and noise for surrounding neighbors (See Exhibit 5). We received multiple emails stating they were ready to sign (See Exhibit 6).
8. The agreement called for a Notice of Special Restriction from the SF Planning Department as an enforcement mechanism, but Planning Staff declined to issue one.
9. Thereafter, other enforcement mechanisms were explored through November 2011, but no mutual agreement was reached. In addition, the owners started backing away from previously agreed terms. Permit Applicants engaged their long-time real estate lawyer (Curtis Dowling) in the interim, requiring us to hire a lawyer, and then switched lawyers all resulting in large time delays. No final agreement was ever reached.
10. On May 3, 2012 we were informed that new plans had been submitted to Planning. The new plans only included a 42 inch open rail enclosure all around, providing no sight, sound, privacy barriers at all, contrary to the agreement and plans that had been drawn up previously. We reviewed them and again contacted the Architect and Planning to understand why.
11. We discovered that Planning is relying on a convoluted interpretation of the Planning Code to allow a deck where, if the Code were followed as written, would clearly prohibit a deck. We found out that this clearly street front facing deck was considered a "backyard", hence to allow the proposed sight, sound, privacy screens it would require a Planning Variance (lengthy and expensive process for Permit Applicant). We requested a variance be granted by Planning in May, but again were denied.
12. In the process, Permit Applicant added to the permit plans for the TIC Roof Deck, serving all occupants of the building, eliminating the need for a personal deck serving one unit to the detriment of at least 15 other adjacent units, but not designed to minimize impacts on the neighboring properties.

## Attachment C

### Discretionary Review Request Page 9 Question 1

*What are the reasons for requesting Discretionary Review?*

#### EXECUTIVE SUMMARY

1. We believe that the new plans for the Pied-a-terre Garage Deck and TIC Roof Deck were not properly notified. Only 2 units in 1468 Francisco (DR Requester) received notice and 3 owners whose addresses are on the DR Application (one residing at 1468 Francisco) did not receive notice.
2. The proposed decks conflict with the City's General Plan, Planning Priorities, the Residential Guidelines, and Planning Code (specifics cited below).
3. The current Planning Code prohibits the building of any deck within 15 feet of the Property line of the adjacent property and increasing the discrepancy of a non-complying structure. Planning is relying on a convoluted "interpretation" of one zoning administrator, which is NOT law, to allow the deck.
4. If approved, the PIED-A-TERRE GARAGE DECK will set a PRECEDENT for the PROLIFERATION of UNSIGHTLY, NOISY STREET-FACING DECKS/DOG RUNS all over the MARINA.
  - a. The Pied-a-terre Garage Deck is being built in the intentionally uninhabited buffer space between corner (usually) 12 unit rental apartment buildings and the adjacent buildings, historically designed specifically to provide light, air, and privacy separation space to bedroom windows. This is a Marina-wide neighborhood feature. These spaces occur 2 to 4 times on virtually every Marina residential block. (See Exhibit 7 for photos.) This layout is also common in Cow Hollow.
  - b. Though technically considered "rear yards" by Planning, these spaces face the street.
  - c. There are virtually no such legal decks in these spaces in the Marina, so this would set a dangerous precedent.
  - d. Any such allowed deck will negatively impact all adjacent and neighboring units (noise, odors, unsightly clutter, defecation and continuous barking of dogs at the street) and negatively impact the quality of life and property value of all neighboring units and the neighborhood.
  - e. The detriment to multiple adjacent units, neighbors, and the neighborhood at large far outweighs the benefit to one unit owner. Planning must consider the public welfare and such impacts.
  - f. Approval will create a flood of discretionary reviews against future proposed decks, unnecessarily burdening city resources.
  - g. The General Plan requires a community-based planning process to address these issues.
5. The Pied-a-terre Garage Deck will impact the light, air, privacy, and noise of numerous (15) adjacent units and will negatively impact the quality of life and property value of all neighboring units to the benefit of only one unit. Applicant should be required to perform an Environmental Study to assess the impacts on others. (See Exhibits 2, 8, and 9 for pictures, list of properties, Sanborn map.)
6. There is no need for the Pied-a-terre Garage Deck as the TIC Roof Deck, if designed to minimize neighborhood impacts, provides a deck for all units at 1490 Francisco Street. The TIC Roof Deck as proposed is not designed to minimize the impacts on the adjacent buildings or the neighborhood.
7. The Planning Commission should not reward owners who threaten to evict tenants in order to TIC a building and remove multiple affordable housing units with obscure code exceptions to their financial gain but at the expense of renters and rest of the neighborhood. This will set a precedent with wide-ranging impacts on affordable rental housing in the Marina. (See Exhibit 7 for numerous photos.)
8. Denial of this single dangerous precedent-setting Application which violates Code and Policy will eliminate the expenditure of unnecessary city and community resources to benefit one Applicant.
9. **Numerous residents and owners all over the Marina object to the approval of such decks as evident from the number of emails sent to the Commission and Supervisor Farrell and petition signatures. (See Exhibits 9, 10, and 11). Given the short notice period, this probably represents a small fraction of those who would be concerned if informed.**

## **THE PROPOSED DECKS DO NOT COMPLY WITH THE GENERAL PLAN FOR SAN FRANCISCO.**

The General Plan forms the basis for Planning Commission decisions. The Plan states the following priorities and policies:

1. *"Recognize and preserve neighborhood character. . . individual projects need to acknowledge the unique needs of the individual neighborhood" (Priority 2)*
2. *"Ensure community based planning processes are used to generate changes to land use controls" (Housing Policy 1.4) – "driven by the input of the community itself"*
3. *"Recognize and protect major views with particular attention to those of open space and water" (Urban Policy 1.1).*
4. *"Prioritize permanently affordable housing" (Priority 1):*
  - a. *"Preserve rental units, especially rent controlled units" (Policy 3.1)*
  - b. *"Preserve "naturally" affordable" housing types such as . . . older ownership units" (Policy 3.4)*

The following issues specifically show how the approval of the Decks would grossly violate the General Plan and its Priorities and Policies, as well as the Residential Design Guidelines.

### ***PIED-A-TERRE GARAGE DECK ISSUES***

#### **THE PIED-A-TERRE GARAGE DECK CLEARLY VIOLATES CURRENT PLANNING CODE**

The Planning Department is relying on the convoluted interpretation by one zoning administrator of the Planning Code to allow the Pied-a-terre Garage Deck where under the current code as written, it would clearly be disallowed.

1. Planning cites Section 188 (a) of the Planning Code which states:

*Within the limitations of this Article 1.7, and especially Sections 172 and 180 hereof, a non-complying structure as defined in Section 180 may be enlarged, altered, or relocated, or undergo a change or intensification of use in conformity with the use limitations of this Code provided that with respect to such structure there is no increase in any discrepancy, at any level of the structure, between existing conditions on the lot and the required standards for new construction set forth in the code, and provided that the remaining requirements of this code is met.*

2. The Pied-a-terre Garage Deck is being built on a street-facing, non-complying garage, which is not built to code in a space that is between 10 to 12 feet of the property line of 1468 Francisco Street. Though clearly street-facing, the Owner and Planning have designated this space a "Rear Yard". If it is a rear yard - despite the street address being 1490 Francisco Street - then Octavia Street is the "front" of the building and the depth of the rear yard is 12 feet maximum.

3. Code Section 136 (c) (25) regarding decks in Rear Yards clearly states:

*Except in required side yards, decks and enclosed and unenclosed extensions of buildings [are permitted], when limited as specified herein:*

*(A) the structure shall extend no more than 12 feet into the required open area; and shall not occupy any space within the rear 25 percent of the total depth of the lot, or within the rear 15 feet of the depth of the lot, whichever is greater.*

**The current code does not allow a deck within 15 feet of the property line of 1468 Francisco Street or 3320 Octavia Street:** the entire depth of the rear yard is maximum 12 feet.

4. Section 172 (b) also states:

No existing structure which fails to meet the requirements of this Code in any manner as described in Subsection (a) above, or which occupies a lot that is smaller in dimension or area than required by this Code, shall be constructed, reconstructed, enlarged, altered or relocated so as to increase the discrepancy, or to create a new discrepancy, at any level of the structure, between existing conditions on the lot and the required standards for new construction set forth in this Code.

- a) Per current Code, neither the non-complying garage nor a deck would be allowed as they do not meet the required 15 foot minimum setback. (Exhibit 1, pages 1 and 2)
- b) The Pied-a-terre Garage Deck clearly increases the discrepancy of the structure as it converts an intended uninhabited buffer space, designed to provide light and air to multiple adjacent bedroom windows, into a private habitable space for one unit to the detriment of the all other adjacent units (including 5 others in the 1490 Francisco Street TIC building).
- c) In addition, the deck increases height of the garage structure by 1 foot. (Exhibit 1, page 5)
- d) The required 42 inch rail fence facing the street and all adjacent units increases the discrepancy even more.
- e) The use of the deck for parties, unsightly storage, barbeques, smoking (within feet of the only usable bedroom windows of 15 adjacent units) and as a street-facing dog run creates a discrepancy of precedent-setting proportions. (See photos in Exhibits 2 and 7)

5. Planning is relying on a 1986 interpretation of the code by one zoning administrator to allow this egregious deck when it clearly violates the requirements of the current Code. The Code is the law, not the interpretation of one zoning administrator.

**THIS IS A PRECEDENT SETTING CASE WHICH WILL HAVE FAR-REACHING DETRIMENTAL IMPACTS ON THE NEIGHBORHOOD CHARACTER OF THE ENTIRE MARINA DISTRICT.**

**Guideline: (page 23 of RDG) “Design the building’s scale and form to be compatible with that of the surrounding buildings, in order to preserve neighborhood character.”**

- 1. **Approval of the Pied-a-terre Garage Deck will create a precedent for proliferation of unsightly and noisy street-facing decks/dog runs all over the Marina.**
  - a. There are virtually no such legal decks in the Marina and we believe none has ever been approved (since there are none). (See Exhibit 7 for numerous photos).
  - b. The proposed street-facing deck is neither compatible with surrounding buildings nor does it preserve the historic Marina neighborhood character. The original 1920’s design of the Marina District included a 10 to 12 foot uninhabited buffer space between the “book-end” 12 unit corner apartment buildings and the adjacent buildings to provide bedrooms in the adjacent buildings light, air and separation space for privacy. The original development of the Marina allowed for adjacent buildings to have windows at the buffer space.
  - c. There are generally 2 to 4 of these intended uninhabited spaces on virtually every block in the Marina District. (See Exhibit 7 for numerous photos).
  - d. The proposed deck converts this space which was intended to be uninhabited and to provide light, air, and privacy for fifteen adjacent units to private use for one unit:

- 5 other units in 1490 Francisco Street – 3 of which have no occupants at this time who can be represented, the other 2 are relatives/friends of owners and financial beneficiaries of the Decks.
  - 4 units in 1468 Francisco Street
  - 6 units in 3320 Octavia Street (See Exhibit 2 for photos)
- e. The technicality that these clearly street-facing spaces are considered backyards by Planning allowing a) decks at all, and b) no privacy, sight or sound protection to neighbors, violates common sense and the purpose for which these spaces were provided.

**2. Street-facing dog runs are not compatible with the neighborhood character:**

- a. Permit Applicant, Building Owner and Owner of the 1490 Francisco St, Unit 3 Pied-a-terre to which the deck is attached, has acknowledged that she owns multiple dogs and is a dog trainer. She mentioned a main purpose in having the deck is for her dogs.
- b. The street-facing deck will in all likelihood result in dogs barking at everyone passing by on the street at all hours affecting all surrounding buildings. Without restrictions, surrounding sight and sound screens, and at least a 4 foot solid parapet at Francisco Street, there is no realistic expectation that there will not be frequent or non-stop barking.
- c. Even if this particular deck were not used as a street-facing dog run, any such approved deck could and likely would be used as a dog run.

**3. This Pied-a-terre deck benefits one property owner/resident at the expense of all other property owners/residents in the neighborhood.**

- a) Other residents of 1490 Francisco, all units in 1468 Francisco, residents of 3320 Octavia, residents of all facing properties across the street, all passersby, and many other neighboring properties in the adjacent FOUR blocks with line of sight or sound will be able to observe clutter and activities (e.g. parties, barking dogs, etc.) that would not normally occur at street front and will be impacted by noise which bounces and carries due to the tunnel effect between the two buildings. (See Exhibit 2, Exhibit 8 – List of Affected Properties and Exhibit 9 – Sanborn Map.)
- b) These impacts will significantly and negatively impact daily life, privacy and enjoyment of neighbors' homes, as well as the property value of all exposed units to the benefit of only one.

**4. Guideline (page 19 RDG): “Corner buildings play a stronger role in defining the character of the neighborhood buildings along the block face.”**

- a) 1490 Francisco is a corner building. The visual character and noise impacts affect several units on at least three adjacent blocks as well. (See Exhibits 8 and 9.)
- b) Approval of the Pied-a-terre Garage Deck creates a dangerous precedent for all corner buildings in the Marina and the Marina in general, because this is exactly where these potential “Garage Deck” spaces occur – on most corners of most blocks in the Marina. (See Exhibit 7).

Approval of the Pied-a-terre Garage Deck creates an unnecessary, dangerous precedent which will detrimentally impact the character of the Marina District, disproportionately harming most residents/owners to the benefit of a few. Approval likely will also result in a flood of Discretionary Reviews.

Numerous residents and owners object to the approval of such decks as evident from the number of emails sent to the Commission and District Supervisor Farrell and petition signatures. These concerned citizens are from all over the Marina not just around Francisco and Octavia. (See Exhibits 9, 10, and 11.) **Given the short notice period, this probably represents a small fraction of those who would be concerned if informed.**

### **THE PROPOSED STREET FACING DECK/DOG RUN PRESENTS SIGNIFICANT LIGHT, AIR, PRIVACY, NOISE AND ODOR ISSUES FOR ALL NEIGHBORING UNITS**

**Guideline (page 15 of Residential Design Guidelines –“RDG”): “Articulate the building to minimize impacts on light and privacy to adjacent properties.”**

- 1. The Pied-a-terre Garage Deck presents significant Light, Air and Privacy issues for 15 other neighboring units (see Exhibit 2):**
  - a. 1468 Francisco Street (DR Requester, 4 unit condo building) and
  - b. 3320 Octavia Street (6 back units facing the deck) 12 unit rental building
  - c. 5 other units of 1490 Francisco Street which are adjacent to the proposed deck
- 2. It provides line of sight to bedroom, kitchen windows and other living areas of adjacent units** including all 4 units of 1468 Francisco Street (DR Requester) as well as all of the back windows (many of which are bays) of 3320 Octavia Street (other adjacent building) forcing people to keep their windows and window coverings closed in order to maintain privacy. (Exhibit 2)
- 3. This will also severely impact all fifteen adjacent units’ light and air (see Exhibit 2).**
  - a. The 1468 Francisco Street (DR Requester) units tend to get very hot in the summer and the deck exposed bedroom windows are the ONLY sources of light and fresh air. BBQ fuel fumes, odors, smoking, and defecating dogs will severely impact access to light and air. A 7 month old baby lives in one of these bedrooms directly facing the deck.
  - b. For many or most of all adjacent building units, the exposed windows are the ONLY or MAIN source of light and air in the exposed room. (See Exhibit 2)
  - c. At 1468 Francisco there are approximately four people who work from home (in some cases the bedroom serves as home office) who will be impacted by constant noise, inability to open windows.
- 4. The deck is proposed in a very narrow, noise tunnel- like area between the adjacent buildings.** This causes noise to bounce, echo loudly and carry farther (up to the top floors of neighboring units and through the middle yard likely to units as far away as Bay Street thus detracting from privacy of numerous neighboring units. (See Exhibits 2 – page 3, 8, and 9).
- 5. Noise and Odors:** A deck by its very nature invites socialization (parties, barbeques, loud conversations, music, etc). All adjacent and numerous surrounding units will be subject to uncontrolled, unreasonable amounts of noise and odors (e.g. BBQ fuel and food) magnified by the “tunnel effect” occurring at all hours.
- 6. Dog-run and Public Health issues:** In addition to noise issues raised above, all adjacent units and neighboring properties face the following issues:
  - a) It is not unlikely that dogs will be let out to urinate or defecate on the deck. Dogs usually bark when they need to go out, usually early in the morning and late at night. All adjacent and

surrounding units will be subject to this constant noise in a loud echoing tunnel. (See Exhibit 2, page 3.)

- b) The urination and defecation will also likely create bad odors, forcing adjacent units occupants to keep their key windows closed. Even if the current Owner is a good person with good dogs, a future tenant or owner may not be.
7. The deck will provide direct physical access to the bedroom window of unit 1 of 1468 Francisco (DR Requester) and creates a security issues for all adjacent units. (See Exhibit 2, page 1)
8. The privacy, noise and odor issues also affect the other 1490 Francisco Units by and above the deck. They will have to keep their bedroom windows closed as well. These units historically have been rented out, but have been turned into TIC units. The Permit Applicant is a majority owner and landlord of the building. It likely will be very difficult for residents to confront the Permit Applicant about noise, privacy, light, air, and odor issues.

**These impacts will significantly and negatively impact the daily life, light, air, privacy and enjoyment of all adjacent and nearby residents' homes as well as the property value of all exposed units to the benefit of only one unit.**

At a minimum the Permit Applicant should be required to perform an Environmental Review of the noise, odor, public health and other issues.

### **HISTORY AND REDUCTION IN AFFORDABLE RENTAL HOUSING IN THE MARINA BY APPLICANT**

The General Plan for San Francisco states that its number one priority policy is to ensure that "the City's supply of affordable housing be preserved and enhanced" and that Planning shall "preserve 'naturally affordable' housing types such as smaller and older units". Permit Applicant, as part of the development including the decks, is removing TWELVE affordable rental housing units from the housing stock.

1. The Owner and landlord of the circa 1924 TWELVE unit rent-controlled apartment building of 1490 Francisco Street died in April 2008, leaving the property to her two daughters (Permit Applicants), one of which is a residential real estate agent. They also inherited a large house in the Marina allowing them to finance the TIC conversion of 1490 Francisco Street.
2. In August of 2008, the new owners initiated eviction proceedings (with the help of legal counsel) against the 64 year old, 30 year tenant of Unit 3 (the site of the Pied-a-terre Garage Deck). The allegations against the tenant were vicious and ridiculous (e.g. that she didn't repair the unit herself after the 1989 earthquake). (See Exhibit 12 for full documentation).
3. Permit Applicant initiated four other eviction proceedings with legal counsel against the tenants in units 1,4 and 5, and Unit 11 filed an unlawful rent increase proceeding with the rent Board:

Eviction Notices:

*Rent Board File No. M081274 (Unit 3, filed 8/7/08)*

*Rent Board File No. M081953 (Unit 1, filed 12/17/08)*

*Rent Board File No. M111469 (Unit 4, filed 9/12/11) [Capital improvement]*

*Rent Board File No. M111470 (Unit 5, filed 9/12/11) [Capital improvement]*

*Rent Board Case No. T081971 (unit 11, filed 12/29/08, unlawful rent increase, petition withdrawn)*

*Rent Board Case No. E081345 (Unit 3, filed 8/26/08, wrongful eviction)*

*Rent Board Case No. J001-45E (wrongful eviction, records destroyed pursuant to record retention policy)*

4. Permit Applicant then presented TIC legal documentation to tenants which included a unilateral right for them to Ellis Act evict any rental tenants (see Exhibit 13, page 2 Eviction restrictions for full text):

Eviction Restrictions "Seller is expressly authorized to invoke San Francisco Administrative Code §37.9(a)(13) ("Ellis Act") at Seller's sole expense for the purpose of evicting rental tenants from the Property without the approval of any other Cotenant.

5. The effect was that all units except four have been vacated. Two units are occupied by the Permit Applicant's adult children, with Unit 3, site of the proposed Street-facing Pied-a-terre Garage Deck/dog run, owned by the Permit Applicant.
6. The Permit Applicant appears to be removing up to 12 affordable rental housing units from the market.

**The Planning Commission should not reward owners, who remove affordable housing stock from the market by threatening the eviction of renters, with code exceptions which benefit these owners financially, to the detriment of the neighborhood.**

### ***TIC ROOF DECK ISSUES***

1. The Roof Deck (345 sq. ft.) is extremely large providing a venue for very large, noisy parties again affecting all properties within a rather large radius.
2. It again is placed on the same side of the building as the Pied-a-terre Garage Deck which then doubly impacts the directly adjacent buildings and is far away from the fire escape path. (See Exhibit 1, page 1).
3. The proposed 42 inch open rail enclosure presents an eyesore, blocking views of water and open space and allowing easy access to the rest of the roof, thereby turning the entire roof into a deck. This impacts the privacy of all units within line of sight, as well as not providing the necessary security features for people on the rooftop or for neighboring buildings.
4. No proposal has been made by Permit Applicant to mitigate any of these issues. Given the brief notice of the scheduling of the DR Hearing, and focus on resolving the Pied-a-terre Garage Deck issues, there has been little opportunity to address these issues.
5. A six foot glass enclosure would help to minimize noise, restrict access to the rest of the roof (enhancing privacy of neighbors), minimize visual impact, light, air, view blocking issues.

## Attachment E

### Page 9 Question 3

3. *What alternatives or changes to the proposed project, beyond the changes (if any) already made would respond to the exceptional and extraordinary circumstances and reduce the adverse effects noted above in question #1?*

1. The TIC Roof Deck, if designed to minimize impacts on the nearby units and the neighborhood at large, eliminates the need for the special Pied-a-terre Garage Deck benefiting only one Unit at the expense of numerous adjacent units, all surrounding units, and eliminating a dangerous precedent for residents and owners all over the Marina.
  - a. A 6 foot glass enclosure of the TIC Roof Deck would help to reduce noise, restrict access to the rest of the roof (enhancing privacy and security of neighbors), minimize visual impacts, and light and air issues.
  - b. Building the Roof Deck on the Octavia side of the building would move it further away from the directly adjacent buildings and would make more sense from the point of view of providing access to the fire escape path and a better water view.
2. The Pied-a-terre Garage Deck should not be approved because it
  - a. does not comply with the General Plan respecting the unique neighborhood design feature of uninhabited space at corner buildings for light, air, and privacy,
  - b. conflicts with current Code requiring minimum 15 foot setback for decks in rear yards, and
  - c. would create a dangerous precedent for unsightly, noisy, street-facing decks/dog runs, all over the Marina thus ruining neighborhood character.
3. Approval of any such Pied-a-terre Garage Decks should be contingent upon satisfactory neighborhood guidelines being developed in the community-based planning process required by the General Plan.
  - a. Without Code or a set of neighborhood guidelines which either prohibits such decks or puts in place guidelines satisfactory to the neighborhood which automatically allows privacy, sight, sound, barriers and provides restrictions on use without lengthy and expensive variance processes and Planning exceptions, neighborhood character and rights of residents and property owners cannot adequately be protected.
  - b. The General Plan provides that community based planning processes driven by the input of the community itself be used to generate changes to land use controls (Housing Policy 1.4). This would be the appropriate way to address such an issue.
  - c. The approval of the Pied-a-terre Garage Deck prior to establishing guidelines will set a precedent result in a proliferation of unsightly, noisy street-facing decks/dog runs all over the Marina District.
  - d. Without such guidelines, there will be a flood of discretionary reviews resulting in disparate application of the rules, a hodge-podge of outcomes and taxing the resources of the Planning Department and Commission as well as the affected parties.
  - e. The Commission, however, should weigh whether any further Planning or Community resources be expended to address a single deck for one unit that does not comply with the Planning Code, General Plan, Policies or Priorities or Residential Guidelines.
4. In lieu of the denying the as requested above, we would ask the Commission to approve and grant the administrative variances and Notice of Special Restriction to provide sight, sound, noise, privacy

barriers and rules agreed by the Permit Applicant 1490 Francisco and 1468 Francisco St. in August 2011 as follows (Excerpted from Exhibit 5):

**1.1 Pied-a-terre Garage Deck Specifications.** 1490 Francisco hereby agrees to build the Pied-a-terre Garage Deck as shown in Exhibit A including the following specifications:

- (a) *Fire Wall and Walkway.* 1490 Francisco shall build a 48 inch tall, one hour fire wall directly next to the adjacent 1468 Francisco Street building wall the entire length of the 1468 Francisco Street building adjacent to the garage (the "Fire Wall"). There shall be a 42 inch fireproof fire escape walkway separating the Fire Wall from the Garage Deck wall.
- (b) *Pied-a-terre Garage Deck.* The Pied-a-terre Garage Deck shall be completely enclosed with a gate on the Francisco Street facing side. The deck surface shall be constructed with lpe wood or another fireproof material. The wall facing Francisco Street shall be set back at least four feet from the street and shall be 48 inches high and solid. All Pied-a-terre Garage Deck walls shall be solid from the bottom up for at least 42 inches with an additional trellis or lattice at least another 24 inches high to provide for privacy of all Parties. The trellis or lattice shall be covered with plants and plexi-glass to serve as a privacy barrier and noise block.

**1.2 Use of Pied-a-terre Garage Deck.** 1490 hereby agrees to the following restrictions on the use of the Pied-a-terre Garage Deck:

- (a) *Hours of Use.* So long as Donna Santana is the sole owner and sole resident of 1490 Francisco Street, Unit 3 ("Unit 3"), use of the Pied-a-terre Garage Deck shall be limited to the hours between 8 a.m. to 10 p.m. on weekdays, and 8 a.m. to 11 p.m. on weekends. In any other event (for example, Donna Santana ceases to own Unit 3, or Unit 3 is rented to or occupied by anyone other than Donna Santana), the Pied-a-terre Garage Deck shall not be used for any purpose between the hours of 9 p.m. and 9 a.m.
- (b) *Fire Protection.* So long as Donna Santana is the sole owner and sole resident of Unit 3, she may use a small non-charcoal burning barbeque which will be located and restricted to use in the front half (Francisco Street facing side) of the Pied-a-terre Garage Deck. In any other event (for example, Donna Santana ceases to own Unit 3, or Unit 3 is rented to or occupied by anyone other than Donna Santana), no items posing fire risk including, for example, barbeque grills, fire pits, propane or other heaters, or candles shall be allowed on the Pied-a-terre Garage Deck, unless agreed otherwise in writing with all owners of 1468 Francisco.
- (c) *Animals.* Animals shall be subject to the Hours of Use provision and will not be left unattended on the Pied-a-terre Garage Deck. The Pied-a-terre Garage Deck shall not be used as a dog or animal run, an animal training area, or as a place for defecation or urination of animals. Loud animals or barking dogs shall not be allowed on the Pied-a-terre Garage Deck.
- (d) *Noise.* All noise on the Pied-a-terre Garage Deck will be kept to a minimum so as not to disturb the residents and or owners of 1468 Francisco.

**1.3 Use of Roof Deck.** 1490 Francisco hereby agrees to the following restrictions on the use of the Roof Deck:

- (a) *Hours of Use.* The use of the Roof Deck shall be limited to the hours between 8 a.m. to 10 p.m. on weekdays, and 8 a.m. to 11 p.m. on weekends.

(b) *Noise.* All noise on the Pied-a-terre Garage Deck will be kept to a minimum so as not to disturb the residents and or owners of 1468 Francisco.

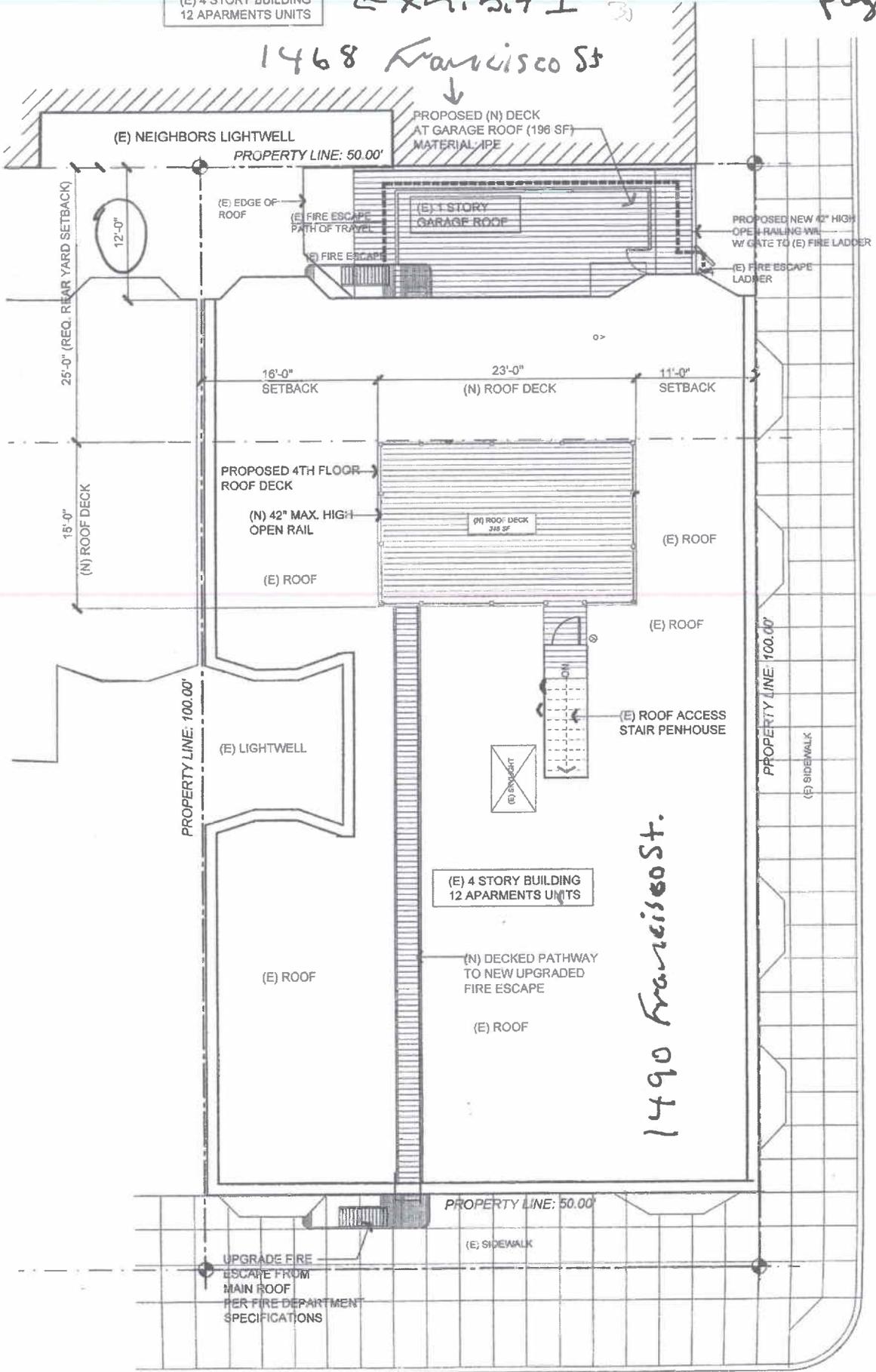
- 1.4 **Notice of Special Restriction.** 1490 agrees that the above restrictions shall be included in a Notice of Special Restriction issued by the San Francisco Planning Department attaching to the use of the Decks.
- 1.5 **1468 Francisco Repair.** 1490 Francisco hereby agrees to allow access of 1468 Francisco to the area of the 1490 Francisco property adjacent to 1468 Francisco to perform repairs to the 1468 Francisco Francisco Street building including erecting scaffolding if necessary. If scaffolding is necessary, 1468 Francisco shall work closely with 1490 Francisco to determine placement of the scaffolding. 1468 Francisco shall be responsible for any damage caused by the scaffolding. 1468 Francisco shall provide 1490 Francisco with 5 business days notice of any repair activity.

(E) 4 STORY BUILDING  
12 APARMENTS UNITS

Exhibit 1

Page 1

1468 Francisco St



F R A N C I S C O S T R E E T

SITE PLAN

ROOF DECK

DATE  
DRAWN

O C T A V I A S T R E E T



1490 Francisco St

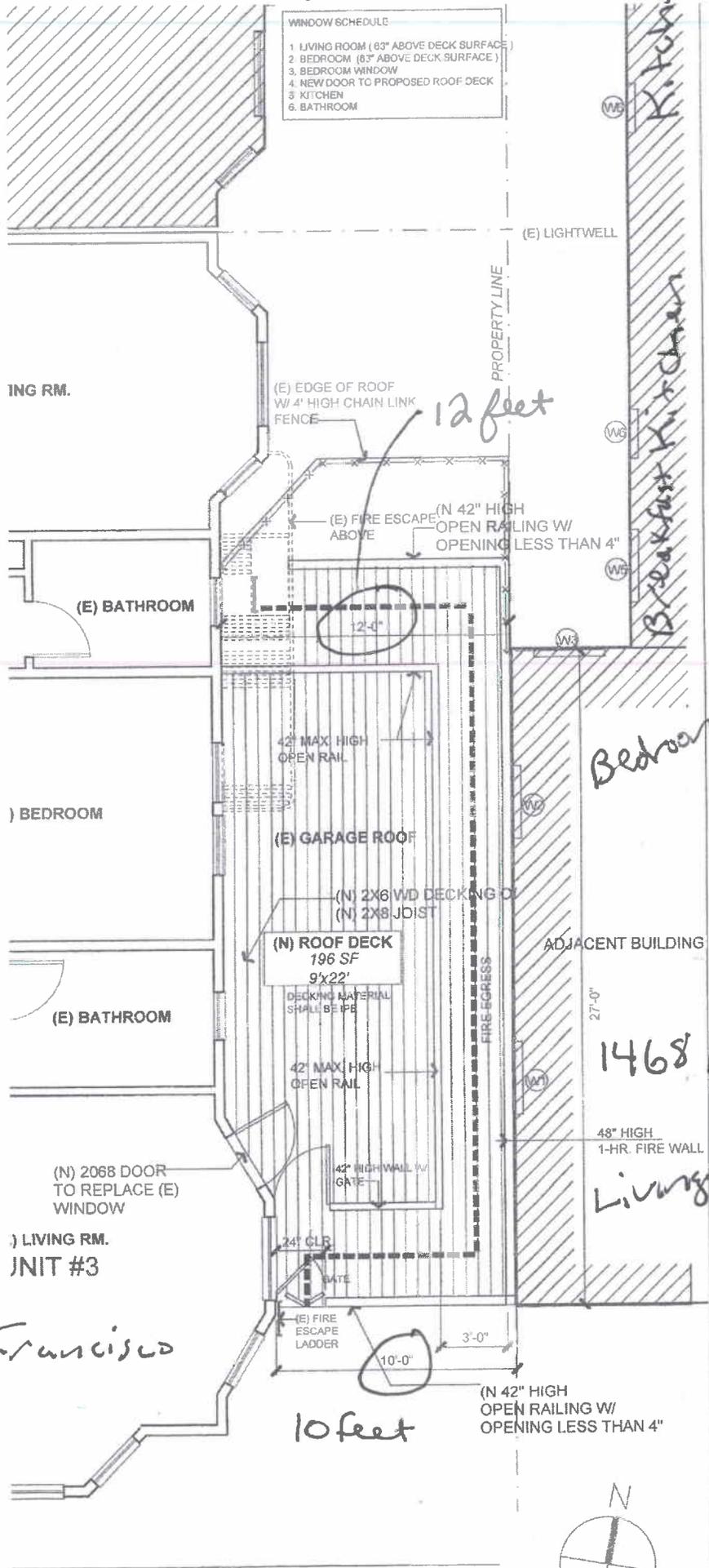
1490 Francisco St.

Exhibit 1

P.2

WINDOW SCHEDULE

1. LIVING ROOM (63" ABOVE DECK SURFACE)
2. BEDROOM (63" ABOVE DECK SURFACE)
3. BEDROOM WINDOW
4. NEW DOOR TO PROPOSED ROOF DECK
5. KITCHEN
6. BATHROOM



**Beaumont + As**  
 4050 Harlan Street, Emeryville  
 Tel: 510/652-4433 Fax



**EXISTING FLOOR PLAN  
 PROPOSED FLOOR PLAN**

1468 Francisco

**ROOF DECK**  
 1490 FRANCISCO STREET  
 SAN FRANCISCO CALIFORNIA

DATE	04/19/12
DRAWN BY	MB
SHEET NO.	

1490 Francisco

10 feet

12 feet

Bedroom

Living room

SCALE: 1/4"=1'-0"

1490 Francisco St.

CESS HOUSE

(N) 42" MAX. HIGH OPEN RAIL

(N) FIRE ESCAPE LANDING

PARAPET

(E) ROOF

(E) FIRE ESCAPE

(E) 4ND FLOOR

(E) FIRE ESCAPE

(E) 3RD FLOOR

30" WIDE GATE

(N) 42" HIGH OPEN METAL RAILING OPENING < 4" (TYP)

(N) WD DECK SURFACE

(E) 2ND FLOOR

(E) 1ST FLOOR

1468 Francisco

1490 Francisco St.

PROPOSED SOUTH ELEVATION

SCALE: 3/16"=1'-0"

Exhibit 1

P. 3

1490 Francisco St.



PROPOSED EAST ELEVATION

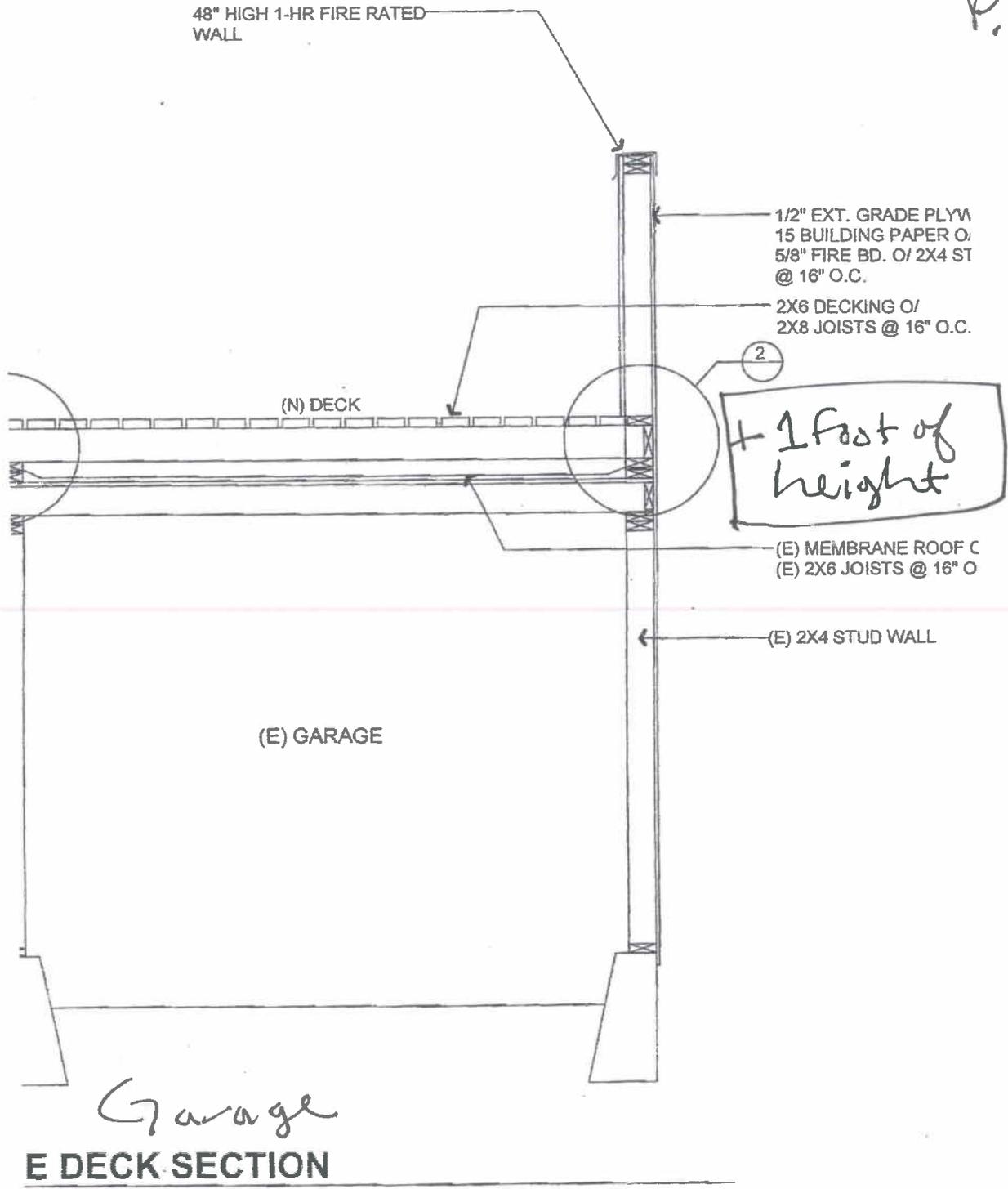
Exhibit 1

P. 4

44'-8" (OVERALL BUILDING HT.)

Exhibit 1

P.5



Deck and support structure  
add 1 foot to height of Deck

1490 Francisco St.

Site of Street Facing Pied-a-terre deck



1468 Francisco exposure to Deck



1468 Francisco Units 2 and 4 Exposure

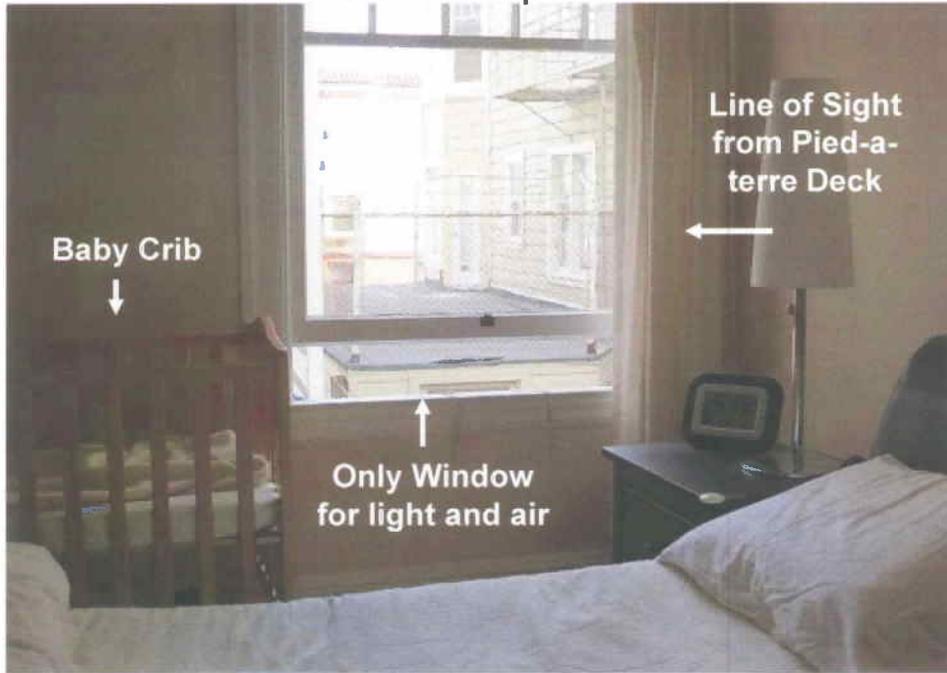


1468 Units 1 and 3 exposed windows



NOTE: These windows are the only source of light and air for the bedrooms/Kitchens.

1468 Francisco Unit 2 Exposure to Deck



View from only Bedroom Window of Unit 4, 1468 Francisco



1490 Francisco exposure to Deck



Narrow Noise Tunnel



1490 Francisco exposure to Deck

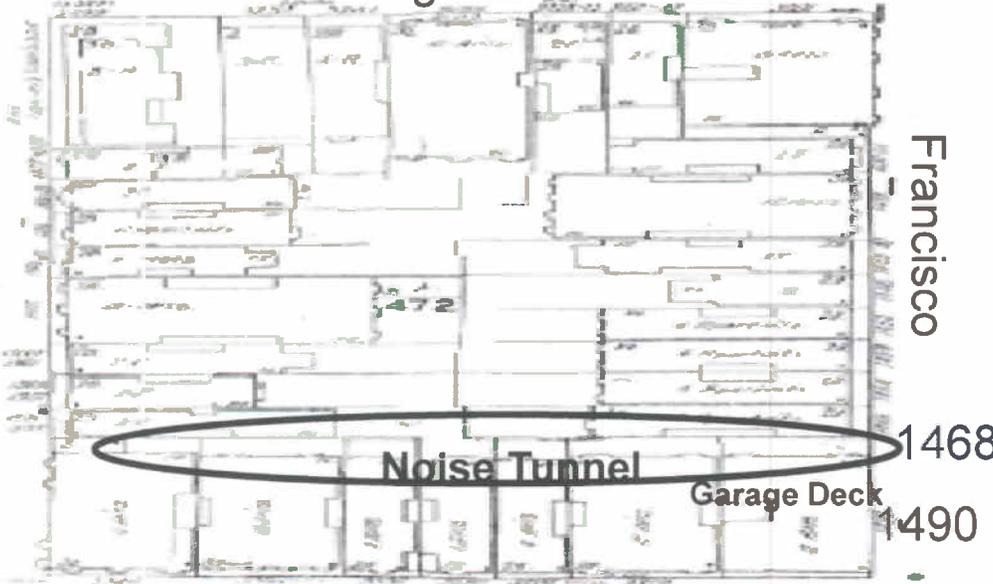


3320 Octavia exposure to Deck



Exhibit 2 - Page 3

Gough Street



1490 Francisco St. DR

Octavia Street

Narrow Noise Tunnel



View from mid 1400 Francisco St. (Block #0481)



1400 Francisco Units with Line of Sight to Garage Deck



View from 1491 Francisco St. (Block #0481)



View from Octavia Block # 0482



Four "Garage Deck" Sites on 1400 Block of Francisco Street Alone!!

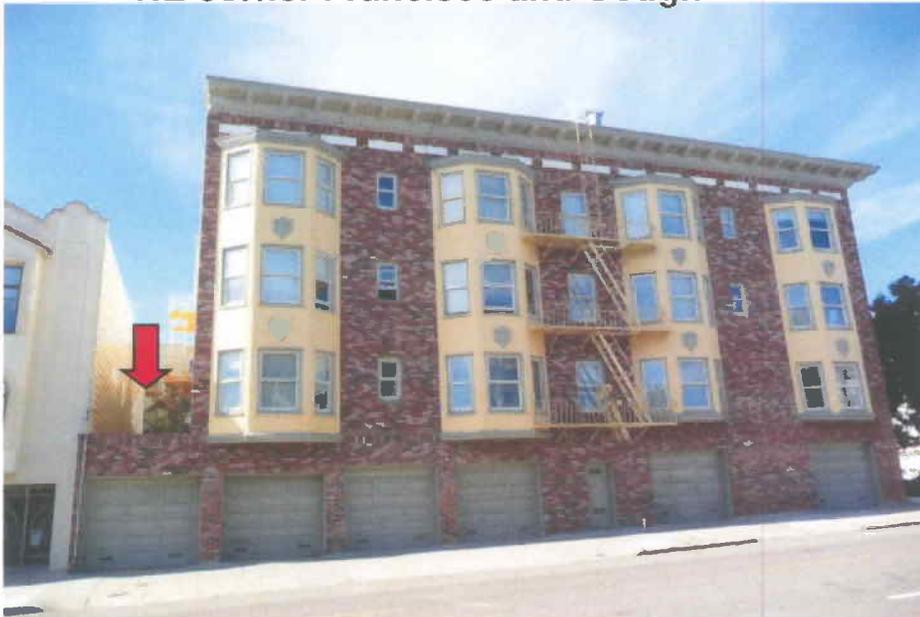
NW corner Francisco and Gough



SW corner Francisco and Octavia – Faces 1490 Francisco



NE corner Francisco and Gough



SE corner Francisco and Gough





Exhibit 3

Page 1

# 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  
1660 Mission St. San Francisco, CA 94103

NUMBER: 201056288  
DATE: 13-JUL-10

ADDRESS: 1490 FRANCISCO ST

OCCUPANCY/USE: R-2 (RESIDENTIAL- APARTMENTS & CONDOMINIUMS W/3 BLOCK: 0472 LOT: 020

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: MDA LLC  
MAILING MDA LLC  
ADDRESS SANTANA DONNA SOLE MEMBER  
25 CORA CT  
WALNUT CREEK CA 94597

PHONE #: --

PERSON CONTACTED @ SITE:

PHONE #: --

## VIOLATION DESCRIPTION:

	CODE/SECTION#
<input checked="" type="checkbox"/> WORK WITHOUT PERMIT	106.1.1
<input type="checkbox"/> ADDITIONAL WORK-PERMIT REQUIRED	106.4.7
<input type="checkbox"/> EXPIRED OR <input type="checkbox"/> CANCELLED PERMIT PA#:	106.4.4
<input type="checkbox"/> UNSAFE BUILDING <input type="checkbox"/> SEE ATTACHMENTS	102.1

At east side of building on 1st floor removal of wood window at bay and installation of wood door & frame leading onto garage roof without the required building permit. SFBC Section 103A.

## CORRECTIVE ACTION:

- STOP ALL WORK SFBC 104.2.4 415-558-6120
- FILE BUILDING PERMIT WITHIN 30 DAYS  (WITH PLANS) A copy of This Notice Must Accompany the Permit Application
- OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 90 DAYS, INCLUDING FINAL INSPECTION SIGNOFF.
- CORRECT VIOLATIONS WITHIN DAYS.  NO PERMIT REQUIRED
- YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED , THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.
- FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDINGS TO BEGIN.  
SEE ATTACHMENT FOR ADDITIONAL WARNINGS.

Obtain building permit to legalize or remove new door & frame installed providing access to garage roof (visible from street).

### 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 \$1000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR: Donal J Duffy

PHONE # 415-558-6120

DIVISION: CES

DISTRICT :

By:(Inspectors's Signature) \_\_\_\_\_

1490 Francisco St



Exhibit 3

Page 2

# NOTICE OF VIOLATION

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

**DEPARTMENT OF BUILDING INSPECTION**

**NOTICE: 2**

**NUMBER: 201056288**

City and County of San Francisco  
1660 Mission St. San Francisco, CA 94103

**DATE: 14-OCT-10**

**ADDRESS: 1490 FRANCISCO ST**

**OCCUPANCY/USE: R-2 (RESIDENTIAL- APARTMENTS & CONDOMINIUMS W/3 BLOCK: 0472 LOT: 020**

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: MDA LLC**  
**MAILING ADDRESS: MDA LLC**  
**SANTANA DONNA SOLE MEMBER**  
**25 CORA CT**  
**WALNUT CREEK CA 94597**

**PHONE #: --**

**PERSON CONTACTED @ SITE: MDA LLC**

**PHONE #: --**

## VIOLATION DESCRIPTION:

	CODE/SECTION#
<input checked="" type="checkbox"/> <b>WORK WITHOUT PERMIT</b>	106.1.1
<input type="checkbox"/> <b>ADDITIONAL WORK-PERMIT REQUIRED</b>	106.4.7
<input type="checkbox"/> <b>EXPIRED OR</b> <input type="checkbox"/> <b>CANCELLED PERMIT PA#:</b>	106.4.4
<input type="checkbox"/> <b>UNSAFE BUILDING</b> <input type="checkbox"/> <b>SEE ATTACHMENTS</b>	102.1

You failed to comply with Notice of Violation dated 7/13/10. Therefore this department has initiated abatement proceedings against the property. SFBC Section 103A

## CORRECTIVE ACTION:

- STOP ALL WORK SFBC 104.2.4** 415-558-6120
- 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 DAYS.**       **NO PERMIT REQUIRED**
- YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED 13-JUL-10, THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.**

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

You will be notified of time, date & place of Director's Hearing by Code Enforcement Division.

**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: Donal J Duffy**

**PHONE # 415-558-6120**

**DIVISION: CES**

**DISTRICT:**

**By: (Inspector's Signature) \_\_\_\_\_**

1490 Francisco St.

## Creation of Non-permitted Pied-a-terre Garage Deck

Non-Permitted Removal of Original Window



Non-Permitted Installation of door.



Note Line of sight to 1491 Francisco Street.

Exhibit 4

1490 Francisco St. DR

# Exhibit 5

1468 Francisco Street Homeowner's Association  
1468 Francisco Street, Apt 1  
San Francisco, CA 94123

August 27, 2011

Owner's of 1490 Francisco Street  
MDA, LLC and CCK17, LLC  
1490 Francisco Street, Apt. 3  
San Francisco, CA 94123

Dear Donna and Christina,

We, the owners of the four unit condo building at 1468 Francisco Street, San Francisco, CA 94123 ("1468"), understand that you, the owners of the multi-unit apartment building at 1490 Francisco Street, San Francisco, CA 94123 with Assessors Parcel Number Block/Lot: 0472 / 020 ("1490"), wish to build a roof deck on top of a separate garage at 1490 Francisco Street which directly abuts the 1468 Francisco Street building (the "Garage Deck") and to build a roof deck on the roof of the 1490 Francisco Street multi-unit building to enhance the value of the building (the "Roof Deck") (together "the Decks").

1468 has filed a Discretionary Review Application opposing the Garage Deck with the San Francisco Planning Department because we have strong concerns regarding the impacts of the Garage Deck on the owners and residents of 1468 Francisco Street including fire risk, noise, privacy, light, air, etc. as well as a potential drop in property value. We note that the only useable bedroom windows and the kitchen windows of all 1468 Francisco Street units are exposed to the Garage Deck.

1468 wishes to minimize the fire risk, noise, privacy, light, air, property value and other impacts of the Garage Deck and the Roof Deck, while 1490 would like to proceed with building the Decks.

We understand that all parties ("Parties") to this letter Agreement ("Agreement") wish to agree to certain conditions and circumstances under which all Parties can achieve the desired results. In consideration of the premises and of the mutual covenants, conditions and agreements contained herein, the parties agree as follows:

**1.1 Garage Deck Specifications.** 1490 hereby agrees to build the Garage Deck as shown in Exhibit A including the following specifications:

- (a) *Fire Wall and Walkway.* 1490 shall build a 48 inch tall, one hour fire wall directly next to the adjacent 1468 Francisco Street building wall the entire length of the 1468 Francisco Street building adjacent to the garage (the "Fire Wall"). There shall be a 42 inch fireproof fire escape walkway separating the Fire Wall from the Garage Deck wall.
- (b) *Garage Deck.* The Garage Deck shall be completely enclosed with a gate on the Francisco Street facing side. The deck surface shall be constructed with Ipe wood or another fireproof material. The wall facing Francisco Street shall be set back at least four feet from the street and shall be 48 inches high and solid. All Garage Deck walls shall be solid from the bottom up for at least 42 inches with an additional trellis or lattice at least another 24 inches high to

## Exhibit 5

provide for privacy of all Parties. The trellis or lattice shall be covered with plants and plexi-glass to serve as a privacy barrier and noise block.

**1.2 Use of Garage Deck.** 1490 hereby agrees to the following restrictions on the use of the Garage Deck:

- (a) *Hours of Use.* So long as Donna Santana is the sole owner and sole resident of 1490 Francisco Street, Unit 3 ("Unit 3"), use of the Garage deck shall be limited to the hours between 8 a.m. to 10 p.m. on weekdays, and 8 a.m. to 11 p.m. on weekends. In any other event (for example, Donna Santana ceases to own Unit 3, or Unit 3 is rented to or occupied by anyone other than Donna Santana), the Garage Deck shall not be used for any purpose between the hours of 9 p.m. and 9 a.m.
- (b) *Fire Protection.* So long as Donna Santana is the sole owner and sole resident of Unit 3, she may use a small non-charcoal burning barbeque which will be located and restricted to use in the front half (Francisco Street facing side) of the Garage Deck. In any other event (for example, Donna Santana ceases to own Unit 3, or Unit 3 is rented to or occupied by anyone other than Donna Santana), no items posing fire risk including, for example, barbeque grills, fire pits, propane or other heaters, or candles shall be allowed on the Garage Deck, unless agreed otherwise in writing with all owners of 1468.
- (c) *Animals.* Animals shall be subject to the Hours of Use provision and will not be left unattended on the Garage Deck. The Garage Deck shall not be used as a dog or animal run, an animal training area, or as a place for defecation or urination of animals. Loud animals or barking dogs shall not be allowed on the Garage Deck.
- (d) *Noise.* All noise on the Garage Deck will be kept to a minimum so as not to disturb the residents and or owners of 1468.

**1.3 Use of Roof Deck.** 1490 hereby agrees to the following restrictions on the use of the Roof Deck:

- (a) *Hours of Use.* The use of the Roof Deck shall be limited to the hours between 8 a.m. to 10 p.m. on weekdays, and 8 a.m. to 11 p.m. on weekends.
- (b) *Noise.* All noise on the Garage Deck will be kept to a minimum so as not to disturb the residents and or owners of 1468.

**1.4 Notice of Special Restriction.** 1490 agrees that the above restrictions shall be included in a Notice of Special Restriction issued by the San Francisco Planning Department attaching to the use of the Decks.

**1.5 1468 Repair.** 1490 hereby agrees to allow access of 1468 to the area of the 1490 property adjacent to 1468 to perform repairs to the 1468 Francisco Street building including erecting scaffolding if necessary. If scaffolding is necessary, 1468 shall work closely with 1490 to determine placement of the scaffolding. 1468 shall be responsible for any damage caused by the scaffolding. 1468 shall provide 1490 with 5 business days notice of any repair activity.

Exhibit 5

1.6 **Discretionary Review.** 1468 hereby agrees to withdraw its application for discretionary review of the Garage Deck with the San Francisco Planning Department upon receipt of the Notice of Special Restriction in 1.4 above.

1.7 **Roof Deck.** 1468 hereby agrees not to oppose the 1490 Roof Deck plans attached as Exhibit B upon receipt of the Notice of Special Restriction in 1.4 above.

The Parties agree that this Agreement may only be terminated, released, or amended or modified upon the express written consent of all of the Parties hereto. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the parties (whether written or oral) relating to said subject matter. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective agents, successors, executors, heirs and assigns.

We thank you for your understanding and efforts to come to this mutual agreement.

Sincerely,

\_\_\_\_\_  
Kimberlee Ann Meyer, Owner  
1468 Francisco Street, Apt. 1  
San Francisco, CA 94123

\_\_\_\_\_  
Date

\_\_\_\_\_  
Vedwatee Gopaul, Owner  
1468 Francisco Street, Apt. 2  
San Francisco, CA 94123

\_\_\_\_\_  
Date

\_\_\_\_\_  
Natalie Delagnes, Owner  
1468 Francisco Street, Apt. 3  
San Francisco, CA 94123

\_\_\_\_\_  
Date

\_\_\_\_\_  
Benjamin Lazarreschi, Owner  
1468 Francisco Street, Apt. 4  
San Francisco, CA 94123

\_\_\_\_\_  
Date

**Agreed and Accepted;**

\_\_\_\_\_  
Donna Santana, Sole Owner MDA, LLC  
1490 Francisco Street, Apt. 3  
San Francisco, CA 94123

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christina McNair, Sole Owner CCK17, LLC  
1490 Francisco Street, Apt. 3  
San Francisco, CA 94123

\_\_\_\_\_  
Date

Exhibit 6

Pg 1

Kim Meyer

---

**From:** woofsup@aol.com  
**Sent:** Thursday, August 25, 2011 8:38 PM  
**To:** kim@meyerassoc.net; patrick@buscovich.com  
**Cc:** mbeaumont@earthlink.net  
**Subject:** RE: New Draft

Hi Kim...

My sister and I are ready to sign the agreement...but its still in the format with all the "red" and headers....could you please send us a clean document that we can sign right away?

Thanks so much !!

Donna

-----Original Message-----

**From:** Kim Meyer <kim@meyerassoc.net>  
**To:** woofsup <woofsup@aol.com>; patrick <patrick@buscovich.com>  
**Cc:** mbeaumont <mbeaumont@earthlink.net>  
**Sent:** Wed, Aug 24, 2011 6:19 pm  
**Subject:** RE: New Draft

Dear All,

Here is the revised draft. I will get it out to the other owners here as well.

Thanks everyone!

Kim

---

Kim A. Meyer  
www.meyerassoc.net

---

**From:** woofsup@aol.com [mailto:woofsup@aol.com]  
**Sent:** Wednesday, August 24, 2011 5:50 PM  
**To:** woofsup@aol.com; patrick@buscovich.com; kim@meyerassoc.net  
**Cc:** mbeaumont@earthlink.net  
**Subject:** RE: New Draft

Hi Everyone...

Kim and I just spoke and we both agreed to a height of 4 feet for the front of the deck.....no other trellis etc. is required. So it seems as though we have finally come to an agreement.

Max .... could you please make this minor change to the drawings so you can get it to planning....So happy to know we're almost there !! Thank you everyone !!

and oh.... Kim will finalize the agreement for us to sign. (thanks)

1490 Francisco St DR

Exhibit 6

Pg 2

Kim Meyer

---

**From:** maxwell.beaumont [mbeaumont@earthlink.net]  
**Sent:** Wednesday, September 07, 2011 2:20 PM  
**To:** kim@meyerassoc.net  
**Subject:** 1490 Francisco Street

Kim, I need an update from you on when we can get the agreement signed.  
My Client is ready to sign.  
Please call me at (510) 384-3066

Thanks  
Maxwell beaumont

**Beaumont + Associates**  
4050 Harlan Street  
Emeryville, California 94608  
tel. (510) 652-4433  
fax. (510) 652-5111  
email: [mbeaumont@earthlink.net](mailto:mbeaumont@earthlink.net)

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No virus found in this message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 2012.0.1796 / Virus Database: 2082/3878 - Release Date: 09/05/11

1490 Francisco St DR

1490 Francisco DR

Exhibit 7 – Page 1  
“Garage Deck” Spaces – East of Fillmore



1490 Francisco DR

Exhibit 7 – Page 2  
“Garage Deck” Spaces – East of Fillmore



**Exhibit 7 – Page 3**  
**“Garage Deck” Spaces – West of Fillmore**



Exhibit 7 – Page 4  
“Garage Deck” Spaces – West of Fillmore



**Exhibit 7 – Page 5**  
**“Garage Deck” Spaces – West of Fillmore**



**Permit Applicant**

1490 Francisco 0472 020 12 Units (occupants)  
4 SADDLEBROOK CT NOVATO CA 94947 (another address for owner)

**Directly Adjacent Properties**

3320 - 0000 OCTAVIA ST 12 Units  
Northshore Resources LLP Owner of 3320 Octavia Block 072 Lot 022  
PO BOX 16182  
SAN FRANCISCO CA 94116

1468 Francisco 4 Units 0472 lots 051 – 054 (occupants and owners)

**Units facing deck on Francisco street**

1441 Block 0481 lot 049 and 1443 0481 050  
1441 FRANCISCO ST SAN FRANCISCO CA 94123

1447 and 1449 0481 035  
1449 FRANCISCO ST SAN FRANCISCO CA 94123 send to 1447 too

1453 Francisco Street and 1455 Francisco Street Lot 0481 034  
3406 CLAY ST SAN FRANCISCO CA 94123 send to occupants as well

1459 Francisco Street and 1461 Francisco Street 0481 033  
301 BALTIMORE WAY SAN FRANCISCO CA 94112 send to occupants as well

1465 Francisco Street and 1467 Francisco Street 0481 032  
1522 SACRAMENTO ST SAN FRANCISCO CA 94109 send also to occupants

1471 Francisco Street Block 0481 Lot 044 same address

1473 Francisco Street 0481 043 same address

1491 1493 1495 1497 1441 to 1447 0481 030  
2134 BAY ST SAN FRANCISCO CA 94123 send to occupants

1435 - 1437 FRANCISCO ST 0481 037  
1435 FRANCISCO ST SAN FRANCISCO CA 94123

1429 - 1431 FRANCISCO ST 0481 038  
1431 FRANCISCO ST SAN FRANCISCO CA 94123

1423 - 0000 FRANCISCO ST 0481 056  
1531 FILBERT ST #4 SAN FRANCISCO CA 94123

1425 - 0000 FRANCISCO ST 0481 056  
1425 FRANCISCO ST SAN FRANCISCO CA 94123

1407 - 0000 FRANCISCO ST 0481 001  
356 KING DRIVE SOUTH SAN FRANCISCO CA 94080

**Facing rear of deck**

3324 Octavia 0472 057 9 PARK WAY PIEDMONT CA 94611 send to occupants  
3324 OCTAVIA ST #2 SAN FRANCISCO CA 94123 0472 058

1490 Francisco Street DR

**3324 Octavia Lot 0472 059**

150 2ND AVE SAN FRANCISCO CA 94118 send to occupants  
3324 OCTAVIA ST #4 SAN FRANCISCO CA 94123 0472 060

**3330 Octavia 4 Units 0472 025**

P O BOX 472169 SAN FRANCISCO CA 94147 send to occupants

**3336 Octavia 4 units 0472 026**

2935 BAKER ST SAN FRANCISCO CA 94123 send to occupants

**3350 Octavia 12 Units 0472 027**

2759 41ST AVE SAN FRANCISCO CA 94116

**3360 Octavia 0472 029 Appears to be 12 or 13 units**

PO BOX 470065 SAN FRANCISCO CA 94147 send to occupants

**1371 and 1373 Bay Street 0472 031**

1371 BAY ST SAN FRANCISCO CA 94123 send to second occupant

**1365 -1367 Bay Street Lo t0472 032**

P.O. BOX 472470 SAN FRANCISCO CA 94147

**Corner Units facing 1490 Francisco**

1503 -1507 FRANCISCO ST 0482 001 same address 3 Units

**3255 -3257 OCTAVIA ST Lot 0482 002**

3257 OCTAVIA ST SAN FRANCISCO CA 94123 owner send to occupant

3254 OCTAVIA SAN FRANCISCO CA 94123 0482 053

3256 OCTAVIA ST SAN FRANCISCO CA 94123 0482 054

1500 FRANCISCO ST #1 SAN FRANCISCO CA 94123 0471 019

1500 FRANCISCO ST #2 SAN FRANCISCO CA 94123 lot 020

1500 FRANCISCO ST 3 SAN FRANCISCO CA 94123 021

1500 FRANCISCO ST 4

1319 PALM ST SAN LUIS OBISPO CA 93401 022

1500 FRANCISCO ST APT 5 SAN FRANCISCO CA 94123 023

1500 FRANCISCO ST APT 6

1452 ASTERBELL DR SAN RAMON CA 94582 024

1500 FRANCISCO ST APT 7 SAN FRANCISCO CA 94123 025

1500 FRANCISCO ST #8 SAN FRANCISCO CA 94123 026

1500 FRANCISCO ST #9

3510 BONITA VISTA DR SANTA ROSA CA 95404 027

1500 FRANCISCO ST APT 10 SAN FRANCISCO CA 94123 028

1500 FRANCISCO ST #11 SAN FRANCISCO CA 94123 029

3315 Octavia Street 5 Units

1490 Francisco Street DR

3530 BAKER ST SAN FRANCISCO CA 94123 0471 002B

**Visual and/or noise impact (1468 side of Francisco Street)**

1464 Francisco Street 0472 018  
3379 WHITEHAVEN DRIVE WALNUT CREEK CA 94598 4 units

1458 Francisco Street 0472 017 4 units  
3257 OCTAVIA ST SAN FRANCISCO CA 94123

1452 Francisco 4 units lot 016  
3344 BUCHANAN ST SAN FRANCISCO CA 94123

1446 FRANCISCO ST SAN FRANCISCO CA 94123 lot 015

1442 FRANCISCO ST SAN FRANCISCO CA 94123 lot 055

1440 FRANCISCO ST SAN FRANCISCO CA 94123 lot 056

1430 FRANCISCO ST SAN FRANCISCO CA 94123 12 units  
P.O. BOX 475884 SAN FRANCISCO CA 94147 lot 012

1422 and 1424 lot 0472 011  
1424 FRANCISCO ST SAN FRANCISCO CA 94123

3201 Gough lot 009  
1151 TARAVAL ST SAN FRANCISCO CA 94116

**Block 0482 of Octavia with view/noise of deck**

0482 002  
3255 - 3257 OCTAVIA ST  
3257 OCTAVIA ST SAN FRANCISCO CA 94123

0482 002A  
3249 OCTAVIA ST SAN FRANCISCO CA 94123

0482 003  
3245 Octavia Street  
2324 LEAVENWORTH ST SAN FRANCISCO CA 94133

0482 004  
3237 Octavia Street  
219 HIGHLAND AVE PIEDMONT CA 94611

0482 004A  
3233 OCTAVIA ST #1 SAN FRANCISCO CA 94123

**Other Required Corner Units**

3254 OCTAVIA ST SAN FRANCISCO CA 94123 0481 053

3256 OCTAVIA ST SAN FRANCISCO CA 94123 0481 054

1531 FRANCISCO ST SAN FRANCISCO CA 94123 **Lot 0482 033** 8 units

1526 FRANCISCO ST SAN FRANCISCO CA 94123 0471 002F 4 Units

NO STREET FACING MARINA DECKS: 1490 FRANCISCO STREET

(Building Permit Number: 2010.12.06.6199

Block/Lot: 0472/020

We hereby request the the Planning Department, Planning Commission, Board of Supervisors, and Mayor of San Francisco, to deny the allowance of Street Facing Decks in the Marina in spaces originally designed to provide light and air to bedrooms of large corner apartment buildings and the adjacent buildings. There are usually four of these spaces on almost every block in the entire Marina District. Planning is treating these Street Facing areas as "backyards" and therefore allowing the decks while disallowing any privacy, sight, sound barriers. We are concerned about the **dangerous PRECEDENT** this sets for the **entire Marina District**, which may result in the overnight proliferation of these noisy eyesores and ruin the atmosphere of the Marina. In addition, we oppose the extremely large roof deck (345 Sq. Ft) also planned for this building which will create a large nuisance for the entire neighborhood.

The owners of these decks stand to make a large financial gain at the expense of the privacy, quiet enjoyment, and property value of all of the surrounding neighbors.

The undersigned **OPPOSE** the building of the decks at 1490 Francisco Street:

<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>EMAIL</u>
1 <i>M. Mante</i>	1442 Francisco	415 673-3894	
2 <i>[Signature]</i>	3037 OCTAVIA	415 345 8554	SONATHAN@PILLOWTALK
3 <i>[Signature]</i>	3224 Octavia St	415 515-4486	Spencer22@SBC
4 <i>[Signature]</i>	3280 Octavia St	415-218-6116	respighi1@gmail.com
5 <i>[Signature]</i>	4122 Francisco	415-877-8245	
6 <i>[Signature]</i>	1240 Francisco St	415-776-6481	
7 <i>Melissa Karnik</i>	1471 Francisco St.	415-271-0184	melissa.karnik@yahoo.com
8 <i>DAVID SHAW</i>	1535 Francisco	916 835-1457	
9 <i>[Signature]</i>	3320 Octavia #12	415 710 7649	eric@baragnide.com
10 <i>[Signature]</i>	1427 Chestnut	415/345 9542	
11 <i>[Signature]</i>	1444 Francisco St.	415-771-6857	
12 <i>[Signature]</i>	3321 OCTAVIA		
13 <i>[Signature]</i>	1407 Francisco St.	415-771-6284	
14 <i>[Signature]</i>	3320 Octavia St Apt 3	530-848 9370	
15 <i>[Signature]</i>	1467 Francisco	415 822 8536	
16 <i>[Signature]</i>	1407 Francisco St. #5	415 617-8935	ashleyerinhenderson@yahoo.com

NO STREET FACING MARINA DECKS: 1490 FRANCISCO STREET

(Building Permit Number: 2010.12.06.6199

Block/Lot: 0472/020

We hereby request the the Planning Department, Planning Commission, Board of Supervisors, and Mayor of San Francisco, to deny the allowance of Street Facing Decks in the Marina in spaces originally designed to provide light and air to bedrooms of large corner apartment buildings and the adjacent buildings. There are usually four of these spaces on almost every block in the entire Marina District. Planning is treating these Street Facing areas as "backyards" and therefore allowing the decks while disallowing any privacy, sight, sound barriers. We are concerned about the **dangerous PRECEDENT** this sets for the **entire Marina District**, which may result in the overnight proliferation of these noisy eyesores and ruin the atmosphere of the Marina. In addition, we oppose the extremely large roof deck (345 Sq. Ft) also planned for this building which will create a large nuisance for the entire neighborhood.

The owners of these decks stand to make a large financial gain at the expense of the privacy, quiet enjoyment, and property value of all of the surrounding neighbors.

The undersigned **OPPOSE** the building of the decks at 1490 Francisco Street:

NAME	SIGNATURE	ADDRESS	PHONE	EMAIL
1 Caitlin Moreahan		3336 Octavia St, Apt 4		CMoreahan@gmail.com
2 LEILA YEE		3055 OCTAVIA ST #102	415-684-8841	leilayee@gmail.com
3 Melissa Tonini		3320 Octavia St #1	415-931-9850	marinamelissa11@sbcglobal.net
4 Gus Farrell		1459 FRANCISCO ST	(415) 474-3070	GusFarrell1@yahoo.com
5 Maria Farrell		1459 Francisco St	(415) 474-3075	mariafarrell65@gmail.com
6 Paul Benjamin		1437 Francisco St	415-240-8181	paulb@pikvire.com
7 CASEY KIMBALL		1441 Francisco St	(415) 396-1401	Casey.Kimball10@gmail.com
8 Mark Nagel		3416 Broderick St.	415 613 4728	mark.s.nagel@gmail.com
9 CHRISTIAN HAASE		101 CERVANTES BLVD	415 613-8576	
10 DAVID GOLDSTEIN		1830 BEACH ST	(415) 567-8091	
11 Julie Wanket		50 Capra #11		
12 Alison Thurston		34 Cervantes Blvd	415-640-0897	alisonsta@gmail.com
13 John Bonjean		32 CERVANTES BLVD	415 474-4989	
14 Jeff Clark		1452 Francisco St. #4	209-248-6753	
15 Rebecca Benson		3251 Gough St	415-867-1972	
16 LARA JOEL		3201 Gough St #203	415 929 2260	lara_joel@yahoo.com

**NO STREET FACING MARINA DECKS: 1490 FRANCISCO STREET**  
**(Building Permit Number: 2010.12.06.6199**  
**Block/Lot: 0472/020**

We hereby request the the Planning Department, Planning Commission, Board of Supervisors, and Mayor of San Francisco, to deny the allowance of Street Facing Decks in the Marina in spaces originally designed to provide light and air to bedrooms of large corner apartment buildings and the adjacent buildings. There are usually four of these spaces on almost every block in the entire Marina District. Planning is treating these Street Facing areas as "backyards" and therefore allowing the decks while disallowing any privacy, sight, sound barriers. We are concerned about the **dangerous PRECEDENT** this sets for the **entire Marina District**, which may result in the overnight proliferation of these noisy eyesores and ruin the atmosphere of the Marina. In addition, we oppose the extremely large roof deck (345 Sq. Ft) also planned for this building which will create a large nuisance for the entire neighborhood.

The owners of these decks stand to make a large financial gain at the expense of the privacy, quiet enjoyment, and property value of all of the surrounding neighbors.

The undersigned **OPPOSE** the building of the decks at 1490 Francisco Street:

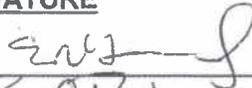
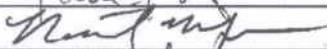
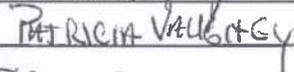
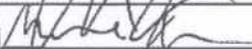
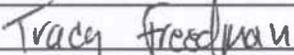
<u>NAME</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>EMAIL</u>
1 Ed Hernandez		3544 Scott St. SF.		
2 Paul Robins		2324 Francisco St SF	650-619-2019	paul.robins@yahoo.com
3 Nate McFadden		3149 Gough St. ✓	415 816 2289	natemcfadden@gmail.com
4 Patricia Jough		2742 Baker St	(415) 567-7152	patricia.jough@gmail.com
5				
6 CHRIS SHAW		20 mallorca		
7 Matt King		79 Toledo Way		
8 Amanda Polite		3767 Scott St		
9 Janet Myers		3149 Gough St ✓	415 771 0917	myersjanet@yahoo.com
10 Tracy Freedman		2324 Francisco St.	415 652 4338	tracyfreedman@gmail.com
11 Scott Won		1367 Francisco St	415 474 4888	W121014@aol.com
12				
13				
14				
15				
16				

Exhibit 11

**From:** Marian Owyang <labmagic@att.net>**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>**Cc:** stop1490decks <stop1490decks@aol.com>**Subject:** No Decks Allowed!**Date:** Fri, May 25, 2012 7:37 pm

---

Dear Planning Commission:

I am against building new decks over the garages and on the roof deck at 1490 Francisco St (corner of Francisco & Octavia). This would disrupt the look of the Marina Neighborhood. If one gets away with these decks, more will appear in the neighborhood. People will party on these decks and the neighborhood would be noisy. We currently have neighbors with a deck on Francisco (between Laguna and Octavia) who parties quite often into the late nights on Friday & Saturday evenings and the whole square block can hear them. Some of us had to complain to the owner renting the unit out to these party animals--the neighborhood sounds like a dorm! There are many families with kids and elderly living here and need their sleep at night. Their quality of life will be disrupted and may affect our property value in this area. We would be affected since we are only half a block away.

Please do not allow decks to be built in this 12 unit building, it will disrupt the look of the neighborhood, allow people to party & drink on decks, house pets on decks, and who knows what else.

Thank-you.

Sincerely,

Marian Owyang  
3225 Octavia St., #4  
San Francisco, CA 94123

**From:** Lazzareschi, Ben @ San Francisco <Ben.Lazzareschi@cbre.com>

**To:** mark.farrell <mark.farrell@sfgov.org>

**Cc:** stop1490decks <stop1490decks@aol.com>

**Subject:** Proposed decks at 1490 Francisco

**Date:** Wed, May 30, 2012 2:17 pm

---

Mr. Farrell,

This letter serves as notice of my STRONG opposition to any deck being built on top of the garage beneath my bedroom window at 1490 Francisco St. This "backyard" is not a backyard at all and on the side of the structure and fronts Francisco St. as does the front door to the building.

This deck is much different than a roof deck in that it sits directly below my windows and other residents windows. This invades our privacy and our right to quiet enjoyment of our residences. We have been living next to construction which has already been noisy and the adjacent yard is littered with debris and even a dead bird. While I can understand construction of units I cannot understand how planning would approve a deck underneath residents windows. Regardless of any argument that the owner may be elderly or quiet or both, real estate changes hands and there is nothing to protect us in the event of the unit being sold to another party.

This building is being converted to TIC's and many tenants have already likely been forced out. The benefit to two or three people has already outweighed residences and will now outweigh adjacent residences.

Furthermore, the deck will be unsightly to the street, reduce light and air coming into the area and would set a terrible precedent for marina residents if decks can be built on top of garages. How something like this can be allowed in San Francisco with its stringent and difficult planning requirements is beyond me.

I am vehemently opposed to my quality of life, the quality of life of my fiancée, my neighbors and others in my neighborhood as well as property values being compromised for this un-needed deck impacting so many and benefitting so few.

Ben Lazzareschi  
Owner of unit #4  
1468 Francisco St.

**From:** Philip Koblis <pkoblis@yahoo.com>

**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>

**Cc:** Mark.Farrell <Mark.Farrell@sfgov.org>; stop1490decks <stop1490decks@aol.com>

**Subject:** Objection to Building Permit # 2010.12.06.6199 (Francisco St Deck)

**Date:** Tue, May 29, 2012 3:58 pm

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Hello Ms. Young,

I was made aware of the following permit for the building of two decks at 1490 Francisco Street. I am an owner and resident of the Marina District.

I oppose the building of the decks, in particular the garage deck being proposed. My property is adjacent to a similar single level garage structure within the Marina.

I'd consider a large wooded structure in a relatively small space next to my home a major fire hazard and noise nuisance. A deck is built for outdoor entertainment. Possible dangers include cigarettes, broken glass, and BBQ's, whether legally allowed or not. Unlike a concrete or grass backyard, decks are highly combustible and therefore in my opinion shouldn't be allowed in confined spaces.

I'm raising a young family in the Marina. We love living in the district. We believe in community. Projects like this, the garage deck in particular, scare us. They benefit only a select few, but add risk to so many more.

Thanks for listening.

Sincerely

-Philip Koblis  
2322 Francisco Street

**From:** Edmpch <Edmpch@aol.com>

**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>

**Cc:** stop1490decks <stop1490decks@aol.com>

**Subject:** 1490 Francisco Street DECK permit#2010.12.06.6199

**Date:** Mon, Jun 4, 2012 5:13 pm

---

Planning Commission: Please accept this as my opposition to the deck addition on the above property. I am the owner of 1473 Francisco Street directly across from the contemplated addition .I feel the intended use will create unwanted noise to this wonderful street.

I hope that the commission takes into consideration the wishes of existing homeowners.I have owned my home here for 15 years.

Edmund Marinucci

1473 Francisco Street

San Francisco CA 94123

**From:** Werner Gerstacker <werner@gerstacker.com>

**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>; Mark.Farrell <Mark.Farrell@sfgov.org>

**Cc:** stop1490decks <stop1490decks@aol.com>

**Subject:** Decks at 1490 Francisco Street

**Date:** Sat, Jun 2, 2012 2:19 pm

---

Dear Commissioner Young,

Dear District Supervisor Farrell,

As a resident of 1468 Francisco Street I would like to use this email to voice my concerns about the decks that are currently being planned at 1490 Francisco Street and ask you not to grant the permission to have them built.

Although I have major concerns about the roof deck as well (e.g. Why is it not planned for the half of the building that is facing Octavia Street rather than the side closer to our building – this would shorten the distance of the emergency escape path and move potential noise away from the building to the street side?) I would like to focus on the street-facing deck that is planned above the garage between the two main buildings of 1490 and 1468 Francisco Street.

This deck is planned to increase the benefit of a few (actually it is only accessible for one out of the twelve units in the building) at the expense of many. These 'many' are not only the owners and residents of 1468 Francisco Street. They also include neighbors across the street, up and down the street as well as the people living in the 3300 block of Octavia and the higher number of the 1300 block of Bay Street (their back windows are facing towards the proposed deck). And by benefit I not only mean property value, I mean the quality of living in the Marina as well.

I was told that the 'garage deck' was supposed to be treated the same as a deck in a backyard (i.e. no noise or sight protection is allowed) which I have trouble understanding. The street address of the building is 1490 Francisco Street and the deck is planned to be built between the buildings of 1468 and 1490 Francisco Street – facing Francisco Street. My common sense is telling me that a deck that can be seen from the street and overlooks a sidewalk should not be called a deck in a backyard. If the address of the building were an Octavia Street address it would be kind of understandable – it would not change the fact the it overlooks the sidewalk though.

Also, the situation for a deck in a backyard is a different one. In most cases I have usually seen trees and other plants muffle the noise from activities in the backyard and protect neighbors by being not only sound, but sight barriers as well. But noise from a deck on top of a garage, i.e. on the second floor) is not broken up and distributed by branches and leaves. Due to the 'tunnel' location of the garage deck noise would be felt and heard even more enhanced because it cannot even escape to the sides. Hearing that the owner is a dog trainer and imagining that she might leave the animals out on the deck by themselves to bark at everyone passing by on the street increases my concerns about potential noise problems even more.

Furthermore, if the deck is treated like a deck in a backyard, I understand that sight barriers would not be required either. This means that people on the deck can look into most of the apartments of 1468 Francisco Street as well as everybody on the street and from the backyard will have to look at whatever might be stored on that deck – this might be nice deck furniture, it might simply become the 'outside storage' for the unit the deck is attached to.

The last point also brings me to my concern that a deck in this spot might create a precedent for these kind

of decks all around the marina with all the fallouts. There are up to four of these buildings on most of the blocks in the Marina and partly the Cow Hollow district as well. What would it look like, if each owner built a deck in this space? How many of them would look nice and would be well taken care of and how many would get cluttered over time and become an eyesore? You have probably seen more backyards in the Marina than I have, but even I've seen my fair share of run-down, not-at-all-taken-care-of backyards. Decks in these spaces between corner buildings and their neighbors would not be any different.

Last but not least, I am really upset about the path of action the owners of the building were thinking to get away with:

They were trying to create facts by replacing an original window of a 1920s building with a door, providing them access to a deck, even before they applied for a permit. It is one thing to apply for proper permits, follow the regulations that try to keep the charm and style of what the Marina is and being granted a permit to make a change and build a deck. It is something completely different to just go about and rip out a 1920s window in order to increase your personal benefit – be it for own use or to increase the sale value of a former rental building.

I hope you can understand my arguments why I object to these decks.

There are many more – I just wanted to state the most important ones from my point of view.

Best Regards,  
Werner Gerstacker

---

Werner Gerstacker  
1468 Francisco Street  
San Francisco, CA 94123  
Mobile 415 601 3987  
[werner@gerstacker.com](mailto:werner@gerstacker.com)



anne friedman  
<agfriedman@earthlink.net>

To sharon.m.young@sfgov.org

cc

05/07/2012 10:34 AM

bcc

Please respond to  
anne friedman  
<agfriedman@earthlink.net>

Subject Fw: Concerns about Plans for 1490 Francisco Street

Typed the wrong email address initially

-----Forwarded Message-----

>From: anne friedman <agfriedman@earthlink.net>  
>Sent: May 7, 2012 10:33 AM  
>To: sharon.m.young@sfgo.org  
>Subject: Concerns about Plans for 1490 Francisco Street  
>

>I'm a tenant in 3320 Octavia Street on the top floor and have concerns about the addition of a roof deck to 1490 Francisco. I have a concern about the possible increase of noise a roof deck will bring as well as concerns about the security to the building I live in. It is hard for me to picture what's planned. Are there any images available?  
>

>Anne Friedman



Sashi Gopaul  
<sashigopaul@yahoo.com>

06/06/2012 05:37 PM

Please respond to  
Sashi Gopaul  
<sashigopaul@yahoo.com>

To "Sharon.M.Young@sfgov.org"  
<Sharon.M.Young@sfgov.org>  
cc "stop1490decks@aol.com" <stop1490decks@aol.com>,  
"mark.farrell@sfgov.org" <mark.farrell@sfgov.org>

bcc

Subject Re: Permit#2010.12.06.6199

Dear Ms. Young:

I am the owner of 1468 Francisco street, unit #2, SF, CA, 02142. I am writing to you to express my strong concerns regarding the effort underway for building a deck on top of the garage at 1490 Francisco street as well as a huge roof deck facing my property. My unit will be directly affected by the decks because my only bedroom window looks directly onto the garage deck. This will obstruct access to light and fresh air by forcing me to keep my window and curtains closed, hence an imposition on my privacy and my safety.

In addition the decks will

- Create added noise from occupants using the deck
- Disturb my privacy
- Devalue my property and my future retirement as a single income earner

Further, by allowing the building of this garage deck with no sight or sound barriers, this will create a precedent for such unsightly and noisy street-facing decks all over the Marina.

As a concerned owner, I ask that you would reject plans to stop the effort for building the decks at 1490 Francisco street.

Thank you very much in advance for your consideration,

Sashi Gopaul



Natalie Delagnes  
<ndelagnes@yahoo.com>

06/05/2012 08:47 PM

Please respond to  
Natalie Delagnes  
<ndelagnes@yahoo.com>

To "Sharon.M.Young@sfgov.org"  
<Sharon.M.Young@sfgov.org>, "Mark.Farrell@sfgov.org"  
<Mark.Farrell@sfgov.org>

cc Kim Meyer <kim@meyerassoc.net>,  
"stop1490decks@aol.com" <stop1490decks@aol.com>

bcc

Subject Re: Please help us stop the deck from being built under your  
bedroom-windows! URGENT and IMPORTANT

To Whom it May Concern:

My husband and I have been owners of 1468 Francisco Street, unit #3 since 2005. I am writing to express my great concerns over the proposed building of the deck on the next door building of 1490 Francisco Street. My unit's bedroom and kitchen is directly above the proposed deck and is a great invasion of my personal privacy. The additional intrusion of sound, blocking of my light and air space is significant. Also, the precedent of the noisy street-facing decks and dog runs in the Marina is a grave concern to me as a native San Franciscan who loves the serene beauty and community of the Marina neighborhood. These issues are vital to protect the personal privacy and enjoyment of the space of families such as myself and others residents.

I have the following concerns for this proposed deck:

Privacy (we will have to see everything and they will see us)

Light (this is our only bedroom window - we shouldn't have to keep our blinds closed for privacy)

Air (this is our only source of fresh, cool air for bedrooms) BBQ fuel fumes, smoke etc. are an issue

NOISE (owners planning to put dogs on deck who will bark at everything that passes by on the street). Could be loud parties, radios going on all day, who knows what)

Quiet enjoyment of my home will be impacted

Property value: They are reducing our property value by probably 4 X what they are gaining. All will be seen and heard from the street and reduce our property value.

PRECEDENT: this is the beginning of proliferation of these unsightly decks all over the Marina (there could be another directly across the street and on every corner of our block as well as all over the neighborhood. There are NO such decks in the Marina in these spaces.

ROOF DECK: it is massive and they put it on OUR SIDE of the building after we objected to the garage deck. NOISE, impact on neighborhood of wild party spaces on buildings

My main concern is that this deck will create a precedent for noisy, unattractive street facing decks on all of these spaces (about 4 on every block in the marina) and ruining the purpose for which they were built (light and air for the corner apt buildings and their neighbors bedroom windows!!).

Thank you for your time and we appreciate your listening to our great concerns.



philip meza  
<philipmeza@hotmail.com>

06/04/2012 09:41 AM

To <sharon.m.young@sfgov.org>, <mark.farrell@sfgov.org>

cc

bcc

Subject Concerns about permit 2010.12.06.6199

Hello Ms. Young and Supervisor Farrell:

I am contacting you because I am concerned to learn about permit 2010.12.06.6199, a permit to allow a deck exposed to and facing Francisco Street near the intersection of Francisco and Octavia Streets. I live on Octavia Street, near that intersection. Such a deck could negatively impact the neighborhood by creating a "backyard-type deck" on the roof of a garage in full view of Francisco Street. Further, I am concerned that granting permission to build this deck would create a precedent for others to build similar decks in full view of street thereby negatively impacting the character of the neighborhood and values of properties therein.

I want to be clear, I am not against roof decks nor backyard decks that are not visible from the street. Such amenities are an enjoyable part of living where we do. But I think we must be vigilant about maintaining the character of the public-facing areas of buildings in our neighborhood.

Regards,

Philip Meza

**From:** Kenneth Kufluk <kenneth.kufluk@gmail.com>

**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>; Mark.Farrell <Mark.Farrell@sfgov.org>

**Subject:** 1490 Roof deck

**Date:** Sun, Jun 3, 2012 4:18 pm

**Attachments:** IMG\_1163.JPG (2849K)

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Hello

I'm writing to express concern over the construction of a roof deck at 1490 Francisco Street. I am a tenant of 1468, next door, and this roof terrace will be an unbearable disruption to life in our apartment.

I have attached a photograph of the view from our only bedroom. The fenced area directly outside the window is the site of the proposed development. As you can see, any roof deck here will look directly into our bedroom. We will need to shield our windows 100% of the day for privacy - and yet this is the only window of our apartment that receives direct sunlight.

The few other garages and rooftops in the area appear to host parties which increase in volume from 6pm until 1am. The noise from such parties are usually heard for a two block radius. The noise from this new deck will be a disturbance for the whole street. However, this deck is also immediately outside our bedroom, and in a narrow opening where sound will be amplified.

My wife and I have a seven month old baby. We quiet down for sleep from 7pm onwards, and usually sleep from 9.30pm or so. A deck of any kind directly outside our window will make sleep impossible.

The Marina has a reputation for student parties, but these are actually confined to the main bar strips. The backstreets of our neighborhood are quiet family streets. I believe that approval for this roof deck would lead directly to a rapid degradation of the area - where families cannot sleep.

I urge you to reject the development of this roof deck in the strongest possible terms.

Many thanks

Kenneth Kufluk  
1468 Francisco Street  
San Francisco  
CA94123

@kpk  
kenneth@kufluk.com

1 Attached Images



**From:** Tanis Leuthold <TLeuthold@MPBF.com>  
**To:** 'Sharon.M.Young@sfgov.org' <Sharon.M.Young@sfgov.org>  
**Cc:** 'Mark.Farrell@sfgov.org' <Mark.Farrell@sfgov.org>  
**Subject:** objection to permit # 2010.12.06.6199  
**Date:** Wed, May 30, 2012 5:33 pm

---

Dear Ms. Young,

I oppose permit # 2010.12.06.6199 to build a deck above the garage and a rooftop deck on the building located at 1490 Francisco Street, San Francisco, CA 94123. I live at 1455 Francisco Street and oppose the decks out of concern that the decks will not only be an eyesore, given the deck over the garage will be in view to the entire street and to many neighboring residences, including mine which is across the street. I am also concerned that the deck will produce increased undesired noise to the neighborhood given the proposed design does not include adequate noise barriers or noise abatement measures. Moreover, the decks will intrude on neighbor's privacy as the proposed deck over the garage has a view into my residence, as well as other neighbors, and the roof top deck would have a view into the backyards and homes of neighbors. For these reasons, granting a permit to build the garage deck and roof top deck at 1490 Francisco Street will undoubtedly have a negative impact on resident's quiet enjoyment of their property by increasing neighborhood noise, reducing privacy, creating an eyesore and thus will necessarily have a negative effect on the property values for neighboring homes and apartments on Francisco Street .

Thank you in advance for considering my objection to permit # 2010.12.06.6199

Sincerely,  
Tanis Leuthold

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**From:** Kelley Fitzgerald <kfitz27@gmail.com>

**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>; Mark.Farrell <Mark.Farrell@sfgov.org>; stop1490decks <stop1490decks@aol.com>

**Subject:** 1490 Francisco Street Decks

**Date:** Mon, Jun 4, 2012 9:54 am

---

Dear Sharon and Mike,

I am a resident of 1468 Francisco Street, #4 and live next door to 1490 Francisco. I am writing to you to express my concern for their plans to build a deck on top of the single garage facing Francisco Street. This proposed side yard deck is right beneath our bedroom and kitchen windows. Their building is already terrible to look at with the peeling paint, rust, and garbage in their backyard. The deck will be used primarily for the owner's dogs and will most likely bark at every pedestrian who passes by on Francisco Street. We will be losing our privacy, sanity, and property value. Please help!

Thanks,  
Kelley Fitzgerald

--  
Kelley Fitzgerald  
(415) 412-6332

**From:** Agnieszka <kmin511@googlemail.com>

**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>; Mark.Farrell <Mark.Farrell@sfgov.org>

**Subject:** Re: 1490 Francisco St, roof deck above the garage.

**Date:** Mon, Jun 4, 2012 8:55 pm

---

Hello

**Re: 1490 Francisco St, roof deck above the garage.**

I live in 1468 Francisco Street, apt. 2. The top of the garage where the deck is supposed to be built is almost directly opposite my bedroom window and nearly on the level. I understand that there would be no sight/sound barrier, just a fairly low railing around the deck. What this means is that anyone would be able to look straight into my bedroom from the proposed deck. I'd be compelled to keep the curtains drawn at all times. There would also be noise, so our bedroom window would have to remain shut. In short, my access to air and light would be severely limited. I have a small child and I can't imagine what our bedtime would be like with parties out on that deck, perhaps long into the night at weekends. In short, the deck would be detrimental to my family's quality of life. I'd rather it wasn't built at all but if it is, some serious sound/sight barrier would be necessary.

Regards,

A. Kmin.

**From:** Janet Myers <myers\_janet@yahoo.com>  
**To:** Sharon.M.Young <Sharon.M.Young@sfgov.org>  
**Cc:** Mark.Farrell <Mark.Farrell@sfgov.org>  
**Subject:** Proposed Deck at 1490 Francisco St.  
**Date:** Tue, Jun 5, 2012 12:46 am

---

Hello,

My name is Janet Myers and I have been a homeowner at 3149 Gough St. in the Marina for 18 years. I am very opposed to the proposed street-facing deck on the garage at 1490 Francisco St. This type of development will have an extremely negative impact on the block face in the neighborhood, as the deck and it's contents will be visible from the street and will detract from the architectural character of the Marina. As there are many, many sites with identical configurations throughout the Marina, approving this project will set a dangerous precedent and open the door for these decks throughout the neighborhood.

In addition to the negative impact to the block face, this type of development most certainly has a negative impact on the residents in adjacent buildings. In the case of 1490 Francisco, there are windows on the adjacent building directly facing the proposed deck site, which is typical of the configuration. Those residents will suffer a loss of privacy and increased noise if the project is approved, which translates into a negative impact on the quality of their lives and a drop in their property value. This type of harmful impact seems to be continually trivialized by the Planning Department, which is of great concern to me and other homeowners in the neighborhood.

As this project is harmful to our neighborhood character and the quality of lives of surrounding residents, I am adamantly opposed and urge you to stop this development.

Respectfully,

Janet Myers

Sent from my iPad

**From:** Alison Thornton <alisonsfo@gmail.com>

**To:** sharon.m.young <sharon.m.young@sfgov.org>

**Cc:** Mark.Farrell <Mark.Farrell@sfgov.org>; stop1490decks <stop1490decks@aol.com>

**Subject:** Street Facing Decks Concern

**Date:** Tue, Jun 12, 2012 1:13 pm

---

I have lived in San Francisco for 15 years, primarily in the Russian Hill & Marina neighborhoods. I am both a landlord and a renter, so I have a great interest in good living conditions in our city, especially on the north side of town.

One of our neighbors caught me and my husband coming home from work yesterday and told us about the upcoming street-facing deck approvals for those small spaces on large apartment buildings (permit 2010.12.06.6199). I was very concerned to hear that dogs could hang out so close to people's bedroom windows. Living in the city, a lot of people have well-behaved smaller dogs, but there are also irresponsible dog owners who allow their big dogs to bark loudly and don't clean up after them, which would be very frustrating to hear or smell if you like to have your windows open and are close to one of these decks, at least with a real yard you can have a bit of distance from it. With these decks, some dog owners may get very comfortable with leaving a window open when they are at work to allow their dog to do what ever he pleases while the owner is away at work all day. There are a lot of young families in the neighborhood and to have a barking dog outside a child's window would likely be enough to make them move out of the city. And in these narrow spaces, sound gets reflected and travels farther than it might in an open area, causing problems for not just those immediate neighbors windows but others as well.

On top of dog noise, when apartment complexes or condos don't have house rules in place mandating what can and can't be stored on decks it turns into an eye sore and makes us look like we live in a cheap neighborhood. We've all seen people who live with their deck as an outside storage area for whatever junk they can't fit in their small apartment.

I'm all for people having good outdoor areas when space is at such a premium in San Francisco, but I'm concerned that these permits can be given too freely if buildings are not required to have proper house rules limiting loud dogs or junk storage on those spaces, and also to have proper repercussions if they've violated the rules, because chances are it's the neighbors that will hold issue to them violating rules, not the residents.

Thank you for your consideration in recognizing these street facing decks need house rules & repercussions to protect neighbors.

Alison Thornton  
34 Cervantes Blvd  
San Francisco, CA 94123  
415-640-0897

**From:** bozco32 <bozco32@pacbell.net>  
**To:** sharon.m.young <sharon.m.young@sfgov.org>  
**Cc:** mark.farrell <mark.farrell@sfgov.org>; stop1490decks <stop1490decks@aol.com>  
**Subject:** Permit 2010.12.06.6199  
**Date:** Sun, Jun 17, 2012 10:15 am

---

Hi,

I'm opposed to garage decks and the impact they will have on the quality of life for those who live nearby. However, I'm not opposed to roof decks. I live at 3544 Scott Street.



Maria Farrell  
<mariafarrell65@gmail.com>  
06/18/2012 09:16 AM

To Sharon.m.young@sfgov.org  
cc Mark.farrell@sfgov.org, stop1490decks@aol.com,  
maria.f.farrell@baml.com  
bcc

Subject STOP 1490 DECKS

History:  This message has been replied to.

I'm a resident on the 1400 block of Francisco Street. I've been a resident on this block for 22 years with my family, owning and living in the building since 1951. It's a BEAUTIFUL Block and we want it to remain that way... Without loud people partying, dogs barking and garbage/clutter showing on the low deck proposed being built on the illegal garage! The deck on the roof is a huge concern as well. There are already records of the police being called to LOUD, out of control parties on the roof-before a deck has even been built. Imagine what a real deck with inviting furniture, music, lighting-firepit will introduce-----MORE PARTIES AND OUT OF CONTROL DRUNKS! It's unsafe to have people eating/drinking up in an exposed area with no safety bars. It's also annoying to hear the sound travel down the block. Both the sound of people loudly talking and the sound of music blasting. EVERYONE has a different type of taste in music and being forced to hear someone else's is not right/fair to ALL of the surrounding neighbors.

PLEASE STOP THE PLANNING OF THE DECKS AT 1490 FRANCISCO STREET....THERE IS A SIGNED PETITION WITH MANY NEIGHBORS DISPUTING THE REQUEST. YOU NEED TO LISTEN!

THANK YOU!

Maria Farrell  
415 290-8436 (cell)  
415 474-3075 (home)



Tracy Freedman  
<tracyfreedman@gmail.com>

06/20/2012 09:10 AM

To Sharon.M.Young@sfgov.org

cc Mark.Farrell@sfgov.org

bcc

Subject Roof Decks in the Marina

History:  This message has been replied to.

Dear Ms. Young,

As Marina residents and renters who pay to stay in San Francisco, we are strongly opposed to the proposed roof deck at 1490 Francisco Street. Our house, a duplex at 2324 Francisco Street, is positioned similarly, next to an 8-unit apartment building. If the owners of that building were to install a roof deck, it would adversely impact our visual privacy at the front of our house, and would add to what is already a very noisy environment. Neighbors to our west have such a deck, and the noise their outdoor gatherings produces rattles through my bedroom and core of the house regularly already.

We believe the deck at 1490 Francisco sets a terrible precedent throughout the Marina, as the layout of most blocks is similar. A neighbor's roof deck on a building 2 feet from my home's perimeter should not exist at my window level--it raises many privacy concerns and would strongly reduce our peaceful enjoyment of the property.

Please reconsider the street-facing roof deck 1490 Francisco for the negative consequences this precedent will bring throughout our neighborhood.

--

Tracy Freedman  
Nick Robins  
2324 Francisco St.  
S.F. CA 94123

[tracyfreedman@gmail.com](mailto:tracyfreedman@gmail.com)

415-652-4338

888-617-4517 fax

Exhibit 12

Response to Receipt of Report Of Alleged Wrongful Eviction

In RE: 1490 Francisco Street #3  
CASE NO. E081345

Date: 8/28/2008

Dianne L. Rowe  
1490 Francisco Street #3  
San Francisco, CA 94123  
(Tenant Petitioner)

Curtis F. Dowling  
Attorney at Law  
703 Market Street #1610  
San Francisco, CA 94103  
(Landlord Attorney)

1. I agree \_\_\_\_\_ or disagree \_\_\_\_\_ with the allegations contained in the Notice of Receipt of Report of Alleged Wrongful Eviction for the following reasons (continue on separate sheet if necessary):

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

2. The Rent Ordinance requires under §37.9(c) that a landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Section 37.9(a) or (b) is the landlord's dominant motive for recovering possession and that the landlord informs the tenant in writing on or before the date upon which notice to vacate is given of the ground upon which possession is sought.

Please sign, date and return the following affidavit:

*I hereby declare under penalty of perjury that the ground stated in the Notice to Vacate is my dominant motive for seeking recovery of possession of the rental unit.*

\_\_\_\_\_  
(signature of landlord)

Executed on \_\_\_\_\_ at \_\_\_\_\_  
(date) (city and state)

Please complete this form, make a copy of it, send the copy to the Tenant, and return the original to the Rent Board Office. Thank you.

If you wish us to contact your attorney or other designated agent/representative regarding this case, please so indicate by providing his/her address below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*If you have any questions regarding this case, please contact Joey Koomas at 252-4602  
Our hours of operation are 8:00 AM - 5:00 PM Monday through Friday*

Residential Rent Stabilization & Arbitration Board  
City and County of San Francisco

copy  
E081345

2008 AUG 26 PM 4:09  
ST. FRANCISCO  
STABILIZATION  
ARBITRATION BOARD

**REPORT OF ALLEGED WRONGFUL EVICTION**

(Please Print)

My name is: Dianne L. Rowe

(First) (Middle Initial) (Last)

Work Phone: (415) 699-0780 Home Phone: same Other Phone: n/a

Fax #: (415) 441-6338 E-mail: dianerowe@aol.com

I have lived at 1490 Francisco Street #3 94123 since January 1 1978

(Street Number) (Street Name) (Apt. Number) (Zip Code) (Month/Day/Year)

My mailing address (if different) is: same

(Street Number & Street Name & Apt. Number OR P.O. Box) (City and State) (Zip Code)

The entire building address (including the lowest and highest numbers) is: 1490 Francisco Street

Number of units in the building: 12 Name of building complex (if applicable): n/a

My building was built before June 13, 1979.  Yes  No  Don't Know

I receive some rental assistance from a government agency.  Yes  No  Don't Know

Specify type of assistance

My rent is paid to  the owner  the manager  the master tenant  other

The person or business I pay my rent to is: Hanford Freund, 47 Kearny St. San Francisco, CA 94108

The owner's name is: Donna M. Santana, Co-Trustee of the Elva Iacono Vergari Trust

(First) (Middle Initial) (Last)

The owner's mailing address is: unknown See Attorney Address/phone

(Street Number) (Street Name) (Apt./Suite Number) (City and State) (Zip Code)

Work Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

The master tenant's name (if applicable) is: n/a

(First) (Middle Initial) (Last)

The master tenant's mailing address is: \_\_\_\_\_

(Street Number) (Street Name) (Apt./Suite Number) (City and State) (Zip Code)

Work Phone: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

The landlord's attorney/representative (if applicable) is: Curtis F. Dowling, Esq.

(circle one) (First) (Middle Initial) (Last)

The attorney/representative's mailing address is: 703 Market St, #1610, San Francisco, CA 94103

(Street Number) (Street Name) (Apt./Suite Number) (City and State) (Zip Code)

Work Phone: (415) 495-8500 Home Phone: \_\_\_\_\_ Other Phone: \_\_\_\_\_

The name, mailing address and phone number of MY  representative  attorney  interpreter (if any) is: n/a

(First) (Middle Initial) (Last) Work Phone: \_\_\_\_\_

(Street Number) (Street Name) (Apt./Suite Number) (City and State) (Zip Code) Fax Number: \_\_\_\_\_

Residential Rent Stabilization & Arbitration Board  
City and County of San Francisco

REPORT OF ALLEGED WRONGFUL EVICTION

WARNING TO TENANTS: The filing of this Report will not prevent the landlord from filing an unlawful detainer (eviction) lawsuit against you in court. IF YOU RECEIVE COURT PAPERS, YOU SHOULD SEEK LEGAL ASSISTANCE IMMEDIATELY.

1. I received a  written and/or  oral Notice to Quit or Vacate my rental unit (an eviction notice) on August 6, 2008 from Curtis F. Dowling, Esq. who is the  owner  manager  master tenant  landlord's attorney  landlord's representative.
2. The eviction notice requires me to vacate my rental unit by October 6, 2008
3. The number of school-age children (grades K-12) who reside in the rental unit with me is: n/a
4. I have attached a copy of the eviction notice to this Report of Alleged Wrongful Eviction.  Yes  No
5. I have attached other supporting evidence to this Report of Alleged Wrongful Eviction.  Yes  No
6. My rent is due on the following date: September 1, 2008. My current rent is \$813.50
7. I offered to pay rent.  Yes  No If Yes, state amount \$813.50 and date of offer: when due 9/1/08  
Did the landlord accept the rent?  Yes  No If No, please explain briefly: LANDLORD has July, 2008 and August, 2008 rent but has not deposited the checks.
8. I have vacated my rental unit.  Yes  No If yes, state date of move-out: \_\_\_\_\_

9. I believe this eviction is wrongful because (use additional sheet if necessary): SEE ATTACHED

10. I understand that I am responsible for my own defense in any eviction lawsuit. I release the Rent Board, its members and staff, the City and County of San Francisco, and any and all of its officials or employees from claims arising out of my filing of this complaint or the Rent Board's decision or action upon it.
11. Have you or your landlord previously filed a petition or report with the Rent Board concerning this property?  
 Yes  No If Yes, please list the petition number(s): \_\_\_\_\_

DECLARATION OF TENANT(S)

I DECLARE UNDER PENALTY OF PERJURY THAT THIS INFORMATION AND EVERY ATTACHED DOCUMENT, STATEMENT AND FORM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NOTE: Every tenant who wishes to be included in this Report of Alleged Wrongful Eviction must sign this declaration.

Print Tenant's Name: Dianne L. Rowe

Tenant's Signature: *Dianne L. Rowe*

Dated: 8/26/08

25 Van Ness Avenue #320  
San Francisco, CA 94102-6033

519 Rept AWE 10/26/06

Phone 415.252.4602  
FAX 415.252.4699



1 The above-described behavior has caused and is causing substantial damage to the  
2 premises, constitutes a nuisance, and also constitutes a substantial interference with the  
3 comfort, safety, and enjoyment of the landlord or tenants in the building.

4 Possession of the premises is sought pursuant to San Francisco Administrative Code  
5 Chapter 37, including Section 37.9(a)(3), which permits an eviction where:

6 **The tenant is committing or permitting to exist a nuisance in, or is causing substantial**  
7 **damage to, the rental unit, or is creating a substantial interference with the comfort,**  
8 **safety or enjoyment of the landlord or tenants in the building, and the nature of such**  
9 **nuisance, damage or interference is specifically stated by the landlord in the writing as**  
10 **required by Section 37.9(c) . . .**

11 **YOU ARE FURTHER NOTIFIED** that the landlord hereby elects to declare the forfeiture  
12 of your lease or rental agreement under which you hold possession of the above-described  
13 premises.

14 **Advice regarding this Notice is available from the San Francisco Residential Rent**  
15 **Stabilization and Arbitration Board, located at 25 Van Ness Avenue, Suite 320, San**  
16 **Francisco, California.**

17 Dated: August 6, 2008

18 **BECKMAN, MARQUEZ**  
19 **& DOWLING, LLP**

20 By: Curtis F. Dowling  
21 Attorneys for Landlord  
22 703 Market Street, Suite 1610  
23 San Francisco, California 94103  
24 Tel.: (415) 495-8500  
25 Fax: (415) 495-8590

cc: San Francisco Rent Board

Tenant, Dianne Rowe's Statement in Response to Notice of Sixty (60) Day  
Notice of Termination of Tenancy  
(San Francisco Administrative Code Section 37.0(a)(3))

On August 6, 2008, Curtis F. Dowling, Attorney for Landlord, faxed to Dianne Rowe (hereinafter "Rowe") a Notice that her tenancy at 1490 Francisco Street, Unit #3, San Francisco, CA 94143, is being terminated effective sixty (60) days following the date of the Notice which is October 6, 2008.

Attorney Dowling states that possession of Rowe's apartment is sought pursuant to San Francisco Administrative Code Chapter 37, including Section 37.9 (a)(3), which permits an eviction where:

The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such nuisance, damage or interference is specifically stated by the landlord in the writing as required by Section 37.9 © ... (emphasis added)

Landlord's express duty under Chapter 37, as cited above, has not been satisfied. Tenant Rowe has not received a writing which specifically states the nature of the alleged nuisance, damage or interference. Landlord has not stated with specificity the acts or conduct alleged to be occurring or have occurred in the relevant past term of tenancy. In failing to provide tenant with specific grounds for Good Cause termination of tenancy Landlord has violated the good faith notification requirement born by landlords by the San Francisco Residential Rent Stabilization and Arbitration Board ("Board") and under its legal mandates and responsibilities. Tenant therefore requests the Board to notify Landlord that it's Notice is only a statement of generalized legal conclusions of law not supported by specified facts sufficient to support a Good Cause termination of tenancy.

Landlord has initiated this termination of tenancy in Bad Faith with full knowledge of the lack of Good Cause and is motivated solely out of the desire to deprive Rowe of her right to remain as a tenant in good standing in a rent controlled property. More to the point, Landlord is attempting to terminate the subject tenancy in order to receive a rental amount far in excess of what it is currently receiving. Tenant Rowe now pays \$813 a month, whereas Landlord has recently offered to rent a comparable apartment unit at 1490 Francisco, San Francisco for \$2650. This amounts to a difference of \$1837 per month or \$22,044 per year.

In addition, Landlord is acting in bad faith and possibly illegally by retaliating against Rowe for having brought to light a substantial number of building and apartment deficiencies in violation of Tenant's express and implied legal rights in the parties' rental agreement. This includes Landlord's duty to act in good faith and not to affect a tenant without factually substantiated Good Cause.

## BACKGROUND:

Tenant, Dianne Rowe is female, age 64 and has lived in the subject property for over thirty (30) years - - since January 1, 1978. At that time Rowe, with Landlord's permission and at her own expense, made many necessary upgrades to the unit including painting and installing wall-to-wall carpeting in every room, mini blinds on all windows, and linoleum flooring in the kitchen. In Rowe's 30-year occupancy, Landlord has performed only minimal repairs Rowe requested and has specifically been told: "we do not paint or upgrade apartments until a tenant moves out." It became necessary for Landlord to repair Rowe's unit in 1989 due to damage from the Loma Prieta earthquake. Since 1989, Landlord has allowed general deterioration to the apartment to occur through deferred maintenance and significant and inexcusable neglect. The 12-unit building does not have a live-in manager. Property managers are Hanford Freund & Company. Rowe at all times has communicated directly with them through their designated employees, not the building's owners. Rowe believes and reasonably assumes this matter is the result of the building's owners dissatisfaction with the property manager's poor performance in managing the building.

On January 27, 2008, Rowe was aware that repairs were being made in the building and took the initiative to detail items in her own apartment that needed repair. See Rowe's "Repairs Needed at 1490 Francisco Street, Apartment 3" dated January 27, 2008 (hereinafter "the 1/27/08 Letter," and incorporated herein as **Exhibit A**). This letter was emailed to Hanford Freund on January 29, 2008 and Rowe thereafter went over it room-by-room with Hanford Freund's current representative, Jennifer Weingand, and in particular on 2/21/08 when Weingand came to Rowe's apartment accompanied by the contractor that would be doing the repairs. Since then, Rowe has made written requests to landlord asking when the repairs would be made and/or completed. To date they are not completed. On August 5, 2008, Rowe faxed a two-page letter to landlord, summarizing the status of repairs still needed in her unit. This letter is incorporated herein as **Exhibit B**. The Landlord responded the next day (8/6/08), when Rowe received by fax a letter from Landlord's attorney stating that her tenancy was being terminated as of October 6, 2008.

## TENANT'S COMMENTS TO LANDLORD'S UNSUPPORTED ALLEGATIONS

Even though Landlord has failed to give Rowe required written notice of the specific nature of the alleged "nuisance, damage or interference" under Section 37.9 ©, Rowe wants to provide the Rent Stabilization and Arbitration Board with specific facts which will show the falseness of the generalized legal allegations set forth in Landlord's Sixty (60) Day Notice of Termination of Tenancy. Each of these allegations is followed by Rowe's response.

**"1. You have not properly and adequately maintained the premises, and have permitted damage going as far back as the Loma Prieta earthquake in 1989 to fester and worsen in the premises over nearly the last 20 years, including substantial damage to the ceilings, walls, floors, paint, cabinets, plumbing, and fixtures."**

**Response:**

The 1989 Loma Prieta earthquake did considerable damage to the entire building, which is located in the Marina on sandy soil, and Rowe was required to move out of her apartment while repairs were made. Of all 12 units, Landlord stated that Rowe's apartment had the most substantial earthquake damage. Landlord plastered and painted all walls and ceilings in Rowe's unit but did not fix damage and disrepair such as cracks in windows, broken bathroom and kitchen tiles, or re-caulking the bath and kitchen. Landlord also did not repair plaster or lath under the kitchen sink, which had cracked and partially collapsed, as did much other plaster throughout the earthquake-damaged building. Reference to this is made in the January 27, 2008 Letter (**Exhibit A**), under "Kitchen." Except for the stated items landlord chose not to repair, and even though Rowe specifically brought them to Landlord's attention, Landlord repaired the unit shortly after the earthquake. Therefore, Rowe did not "permit damage going as far back as the Loma Prieta earthquake in 1989 to fester and worsen in the premises over nearly the last 20 years, including substantial damage to the ceilings, walls, floors, paint, cabinets, plumbing and fixtures." Rowe has a letter from Landlord to all tenants, dated January 4, 1990, stating "As a result of the earthquake, the insurance company is requiring us to have a complete inspection and appraisal of the building on 1/9/1990 ..." Apartment 3 was fully inspected and Landlord's records will no doubt reflect this. Rowe has since reported all problems immediately to Landlord and Landlord and repairmen have been in Rowe's apartment during the last twenty (20) years.

**"2. You have permitted continuing and regular water intrusion and leaks into the premises, causing substantial damage to portions of the premises, without making any effort to remedy the damage, or to seek a remedy."**

**Response:**

Rowe has always immediately reported all water leaks in her unit for immediate repair. Over the thirty years leaks have occurred due to normal wear and tear to faucets and to each of the 3 radiators in Rowe's unit. All of Rowe's radiators have leaked at different times over the thirty years and repairs should be on file with Landlord.

In approximately 2002, Rowe noticed water dripping from her bathroom ceiling that was coming from the bathroom above. She called Hanford Freund to report it and plumbers came and removed the entire ceiling. They discovered that it was the bathtub above that was leaking. They fixed the leak from Rowe's apartment and when the repair was finished they replaced the ceiling and put an access hatch. In approximately 2005, Rowe again noticed water dripping from the bathroom ceiling and called Hanford Freund to report it. The plumber who did this repair determined that the leak was coming from the toilet above. In early July, 2008, Rowe again reported a leak in the bathroom's ceiling coming from the unit above. To date, landlord has not repaired this leak and Rowe has sent over 7 emails, plus telephone calls, requesting repairs. See bathroom photographs incorporated herein as **Exhibit C**. Landlord is fully aware of the leak, and has inexplicitly been allowing water damage to occur. Also, in early July, 2008, Rowe

reported a leak under her kitchen sink and suggested that Landlord replace the sink due to its age and cracked, ungrouted, moldy tiles . Landlord told Rowe they would not replace the sink, and would only repair the leak. The plumbing company brought into the unit stated to Landlord that the entire sink and pipes needed to be replaced due to age and observed that Rowe was having to use buckets to catch the leaking water. To date the sink has not been repaired and Rowe continues to use buckets to catch the water leaking under the sink See kitchen sink photographs incorporated herein as **Exhibit D**. Rowe has telephoned and sent many emails to landlord requesting repair of this kitchen sink leak. To date it is not repaired. Landlord is knowingly allowing water damage to the building and specifically to Rowe's apartment. See also the 1/27/08 Letter (**Exhibit A**) in which Rowe described cracks and discoloration from water damage on outside walls in the bedroom and living room. Rowe personally showed these cracks to Landlord's representative Jennifer Weingand on 2/21/08 when she came to the apartment accompanied by a repair contractor. To date, these cracks have not been repaired and landlord is allowing additional water damage to the building and to Rowe's apartment (See photographs incorporated herein as **Exhibit E**).

Over the years, there have been leaks in the apartment immediately above in almost every room. Rowe was told of these leaks by the other tenant and Landlord repaired them in a timely manner. Landlord never inspected Rowe's unit for possible damage as a result of the leaks above her unit.

Also, over the years Rowe has noticed some paint discoloration on the ceiling and walls in the dining and living room but they did not concern her as she planned to paint her unit eventually. Landlord is accusing Rowe of allowing water intrusion and leaks into her unit from the apartment unit above and damaging the ceiling and walls. Rowe denies she ever saw water leaking in her living and dining rooms. Eventually a wall common to two radiators developed cracks and the plaster started to fall off from the described repaired radiator leaks in the unit above. Landlord never once inspected Rowe's unit for damage from clearly known leaks in the above apartment. Rowe has reported this wall damage in the January 27, 2008 Letter (**Exhibit A**) and this wall has been repaired but not painted.

Moreover Landlord, over the 30 years Rowe has lived in Apartment 3, has received and otherwise had knowledge of numerous repairs needed in Rowe's unit and the unit above. Rowe has from time to time reported plumbing problems common to apartments including toilet leaks and malfunctioning, steam radiator leaks, plumbing backups in both kitchen and bathroom, etc. Landlord called in plumbing repair companies to clear bathroom and kitchen drain pipes backups on several occasions and should have records.

More than five years ago Rowe reported rodent infestation, which required a complete inspection by Landlord's rodent removal service for defects in walls, ceilings, floors and other areas where rodents had entered the apartment. Landlord had full opportunity to personally inspect and/or have inspected and repaired the apartment's walls, ceilings floors and sinks. Therefore, Rowe has not "permitted continuing and regular water intrusion and leaks into the premises ... without making any effort to remedy the damage, or to seek a remedy."

**“3 You have accumulated and are accumulating too much personal property, including combustible materials, in the premises – using the premises as a storage area for your commercial operations – and are thereby creating an unwarranted risk of fire.”**

**Response:**

While having no idea what Landlord means by “too much personal property”, Rowe, a single woman leading a normal life, has acquired a normal amount of furniture and personal items over the thirty years she has lived in Apartment 3. See photographs incorporated herein as **Exhibit F**. Further, there are not now nor have there ever been any, “combustible materials in the premises”, aside from ordinary household cleaning products, if those even are classified as “combustible materials”. Rowe is not using the premises as a “storage area for commercial operations”. Landlord has not specified what “commercial operations” it is referring to; Rowe does not conduct “commercial operations” from her apartment premises. This is a patently false and unsubstantiated accusation.

**“4: You have stored and are storing trash in common areas of 1490 Francisco Street, for apparent use in your commercial operations.”**

**Response:**

Landlord does not define or specify “common areas,” however, Rowe assumes these to be areas where all tenants have permitted access, such as hallways and stairways. Landlord does not specify the nature of “stored trash,” nor provide any evidence to describe or evidence this generalized allegation. Rowe has not and is not now storing “trash” in common areas for “apparent use in commercial operations.”

Approximately March 10, 2008, landlord notified Rowe to remove a filing cabinet from the hallway in front of her unit. In response, Rowe emailed landlord as follows: “The workers came on February 28 and 29th and they moved a filing cabinet that was in the way outside in the hall. The following week, March 3-7, no one came to work on the apartment. Same goes for today (Monday). Therefore, I wanted you to know that the filing cabinet is still out there for that reason. Also, I bought a desk for my apartment but I put it in my garage instead of bringing it up to my apartment because of the work being done in my apartment and the dust, etc. I hope it is OK to keep it there until the work is finished as it is just one more thing in the way and to cover and/or move around.” To date the repair work is still not completed, however Rowe informed Landlord in an email dated March 25, 2008 that she removed the filing cabinet from the outside hall. The filing cabinet is not used for “commercial operations,” but for holding personal correspondence and personal records. This was the only common area matter raised by Landlord in year 2008. There have been no other communications, oral or written, from landlord to Rowe regarding anything being stored by her in a common area.

## CONCLUSION

Landlord's attorney has made generalized legal conclusions unsupported by specified facts which are required to support a Good Cause termination of tenancy.

Landlord bases its decision to terminate Rowe's tenancy largely on unsubstantiated claims of substantial damage to Apartment 3. From the date she first occupied Apartment 3, over 30 years ago, Rowe has taken every reasonable measure to protect Landlord's interests and this includes notifying Landlord of problems on a timely basis. Having had timely and adequate notices, Landlord cannot at this late date claim that the need for repairs was somehow hidden from it by Rowe. Any deterioration that occurred was due to the willful neglect by Landlord of its own property.

Additionally, Landlord's generalized claims that Rowe has caused a nuisance and/or substantially interfered with the comfort, safety and enjoyment of the landlord or tenants in the building are also not specified and do not meet the legal standard of Good Cause for termination of Rowe's tenancy.

Tenant Rowe requests that the Board reject Landlord's submitted Notice as being legally insufficient and take all appropriate actions to protect Rowe's rights under the San Francisco Rent Control program.

The statements made in this response to Landlord's allegations are true and correct to the best of Tenant Rowe's recollection and knowledge.

## REPAIRS NEEDED AT 1490 FRANCISCO STREET, APARTMENT 3 (1/27/08)

**History:** Moved in 1977. Owners policy at that time was not to upgrade apartment unless absolutely necessary. Not repainted, floors not refinished or carpeted. No upgrades to kitchen or bathroom. No blinds provided. I painted the entire apartment, except inside closets. Owners reimbursed me for cost of paint. Minor repairs, if any, performed before 1989 earthquake. Apartment ceilings, walls repaired and painted after 1989 earthquake. Minor repairs, if any, 1990 to date. File should reflect dates of repair on bathroom ceiling, bedroom & other radiator leaks, refrigerator & kitchen faucet upgrade.

### ENTRANCE HALL:

Cracks and peeling paint on ceiling and walls. Last painted 1989.  
Some cracks/peeling of paint in hall closet. Paint dates to pre-1977.  
Bottom of front door needs new weather strip.

### BATHROOM:

Cracks and peeling paint on ceiling and walls. Except for ceiling, last painted in 1989.  
Window swollen. Doesn't close or open fully. Small crack in pane.  
Shower tiles cracked (happened during 1989 earthquake as I recall).  
Calking should be redone on bath, sink and toilet.

### BEDROOM:

Cracks and peeling paint on ceiling and walls. Last painted in 1989.  
Possible water damage above windows from outside (discoloration)  
Cracks and peeling paint in closet. Paint is pre-1977.  
1 window does not have a lock and is permanently secured shut.

### LIVING ROOM:

Cracks, peeling paint, and water damage on ceiling and walls. Last painted in 1989.  
Some windows do not lock/close completely; 1 window does not have a lock; 2 windows painted shut.  
Crack on outside wall under window. Appears to be due to water damage from outside.

### DINING ROOM:

Deep cracks, peeling paint, and water damage on ceiling and walls. Last painted in 1989.  
Some windows do not lock or close completely.  
Cracks and peeling paint in closet (painting dates to pre 1977).  
Shattered glass pane in door to kitchen (I believe it happened during 1989 earthquake).

### KITCHEN:

Deep cracks, peeling paint, and water damage on ceiling and walls. Last painted in 1989.  
Window does not lock or close completely.  
Tile around sink broken and missing. Redo calking. Tile sink hard to clean. Suggest double metal sink.  
Plaster shattered under sink, wood exposed. Believe it was due to 1989 earthquake.  
Stove very old (dates to pre 1977); door does not close tightly, and does not keep correct temperature.  
1 light fixture doesn't fully work. Must need new wiring.  
Wooden drawer broken and doesn't close; peeling paint inside closets.  
linoleum floor worn through to wood in one large spot; various cuts on remaining floor.  
Kitchen door mounted incorrectly? Hinges on outside vs. inside everywhere else. Could be removed.



To: Jennifer Weingand  
Hanford Freund & Company  
From: Dianne Rowe, 1490 Francisco Street, Apt. 3  
Re: Repairs and Plumbing in Apartment 3  
Page: Two

**B. Early July, 2008, Plumbing Problems reported but not fixed:**

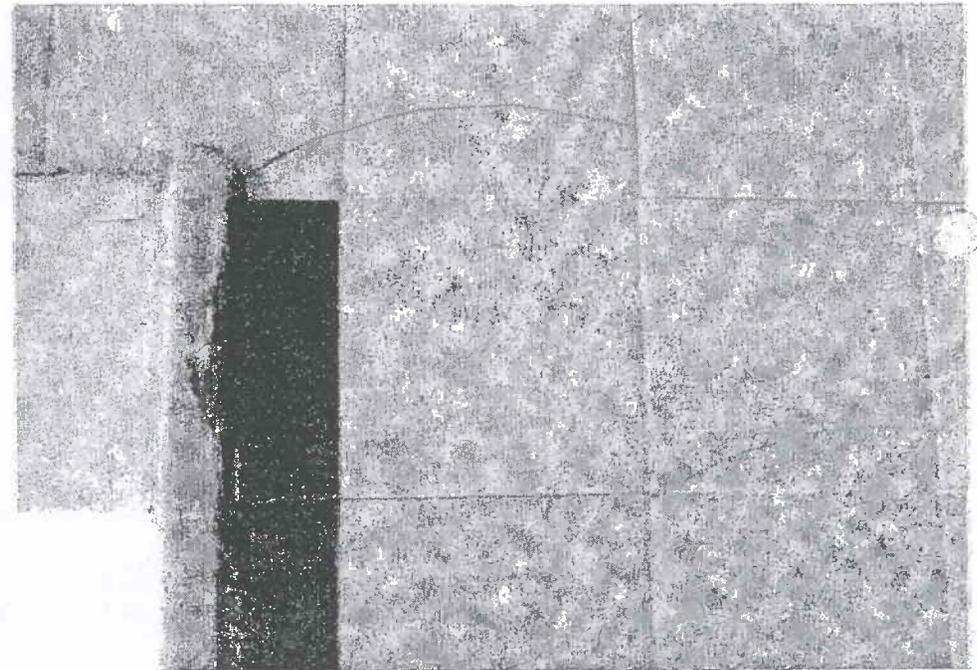
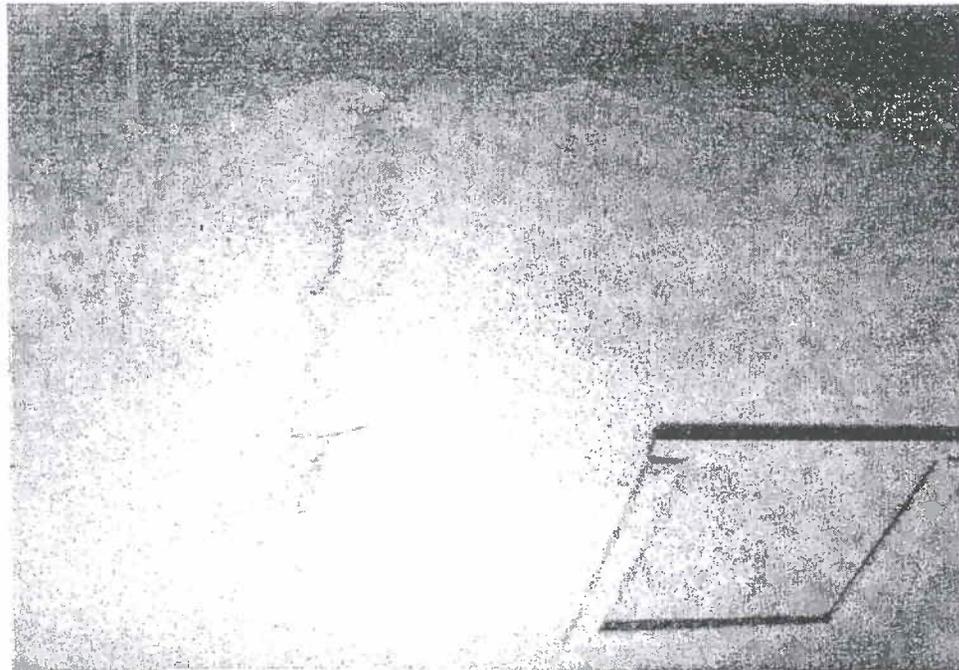
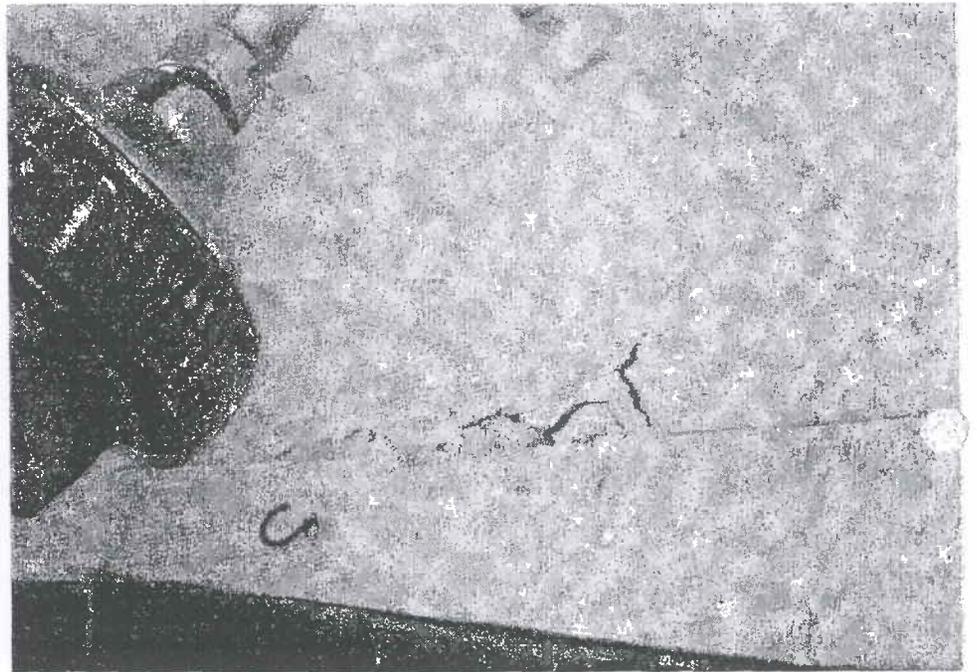
**Bathroom:**

Leak coming from bathroom(s) above. Plumbers thought they fixed it but it leaked again. Plumbers left ceiling hatch open and never came back to find or check on the leak. Ceiling is cracking and paint bubbling under it. Musty smell. Concerned about mold from this leak;

Plumber fixed leaking cold water faucet. Tightened handle so much, I can barely turn it on & off. Needs to be adjusted.

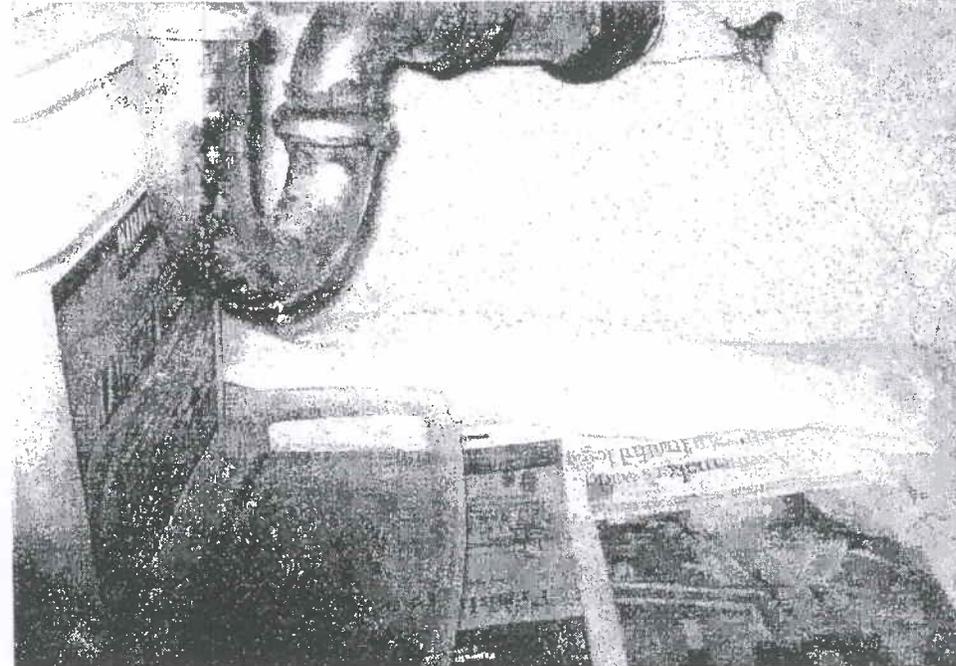
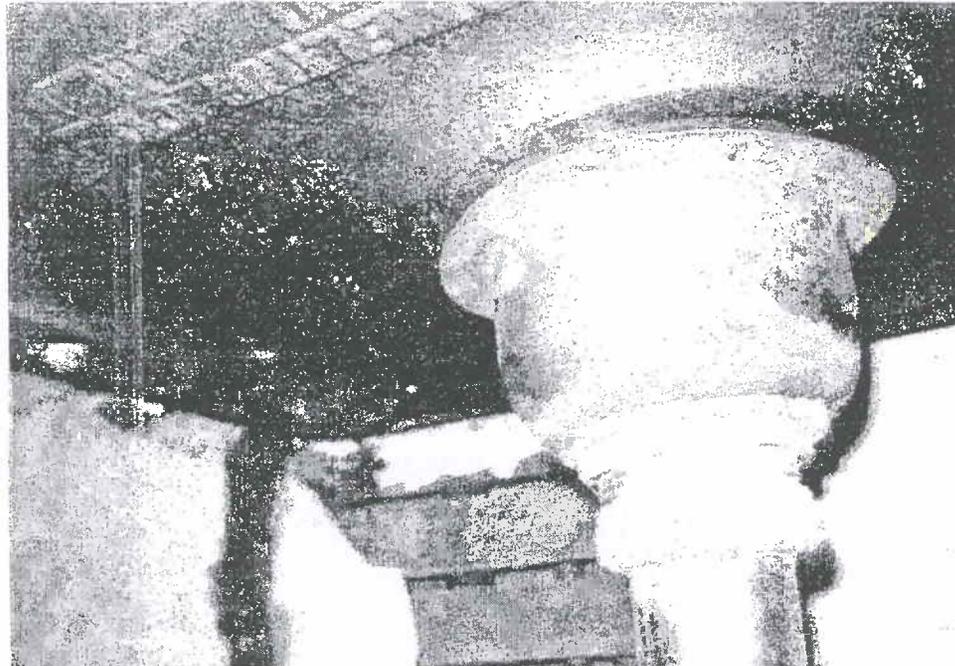
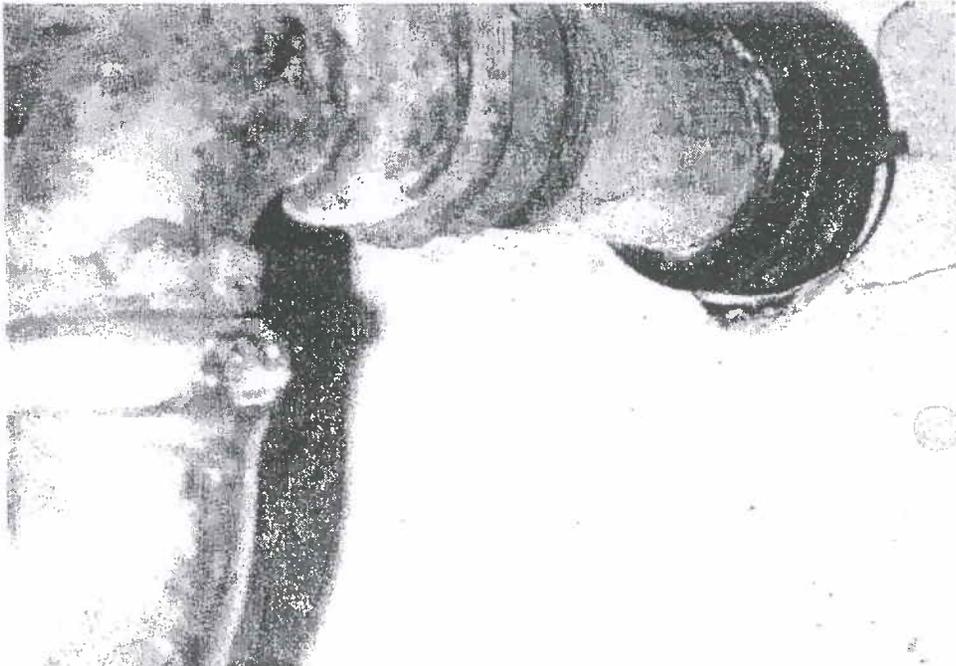
**Kitchen:**

Pipes leaking under sink making it necessary to use pans and buckets to try to catch leaks. Plumber advised that all pipes need to be replaced and old sink and tile should be replaced at the same time. Back wall under sink should be repaired at this time. Concerned about mold, as I recently pointed out to you that the floor is starting to buckle under the linoleum floor which I believe is due to this leak.



CURRENT BATHROOM CEILING LEAK

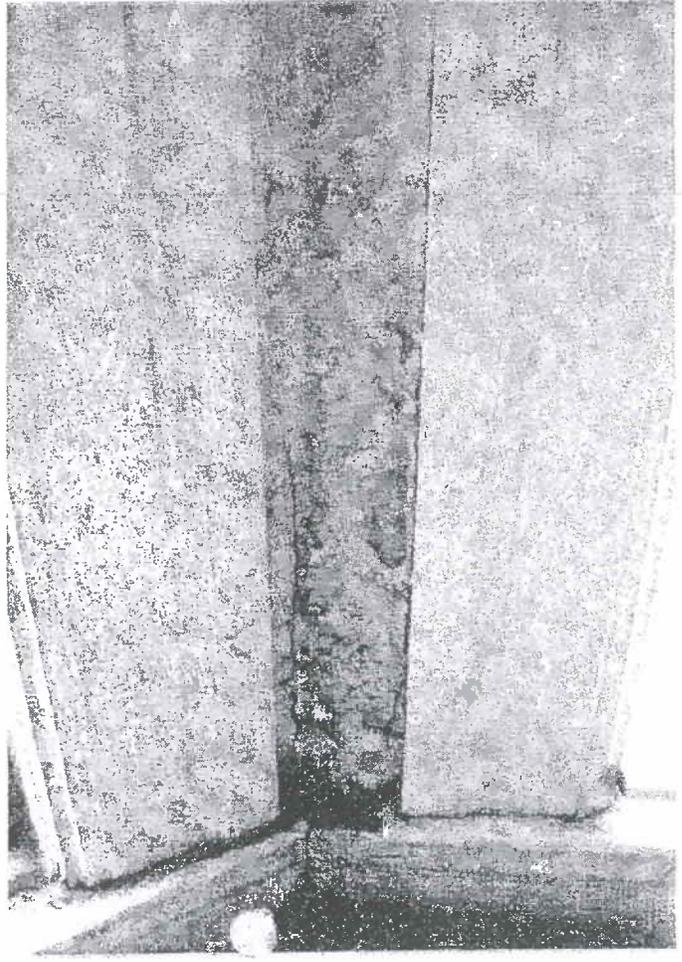
EXHIBIT C

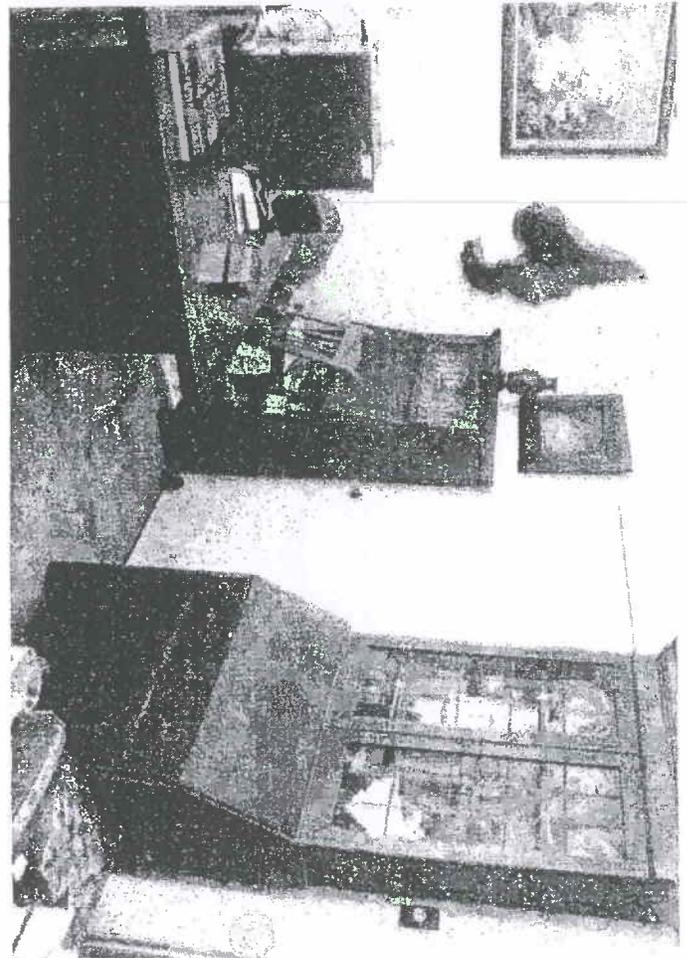
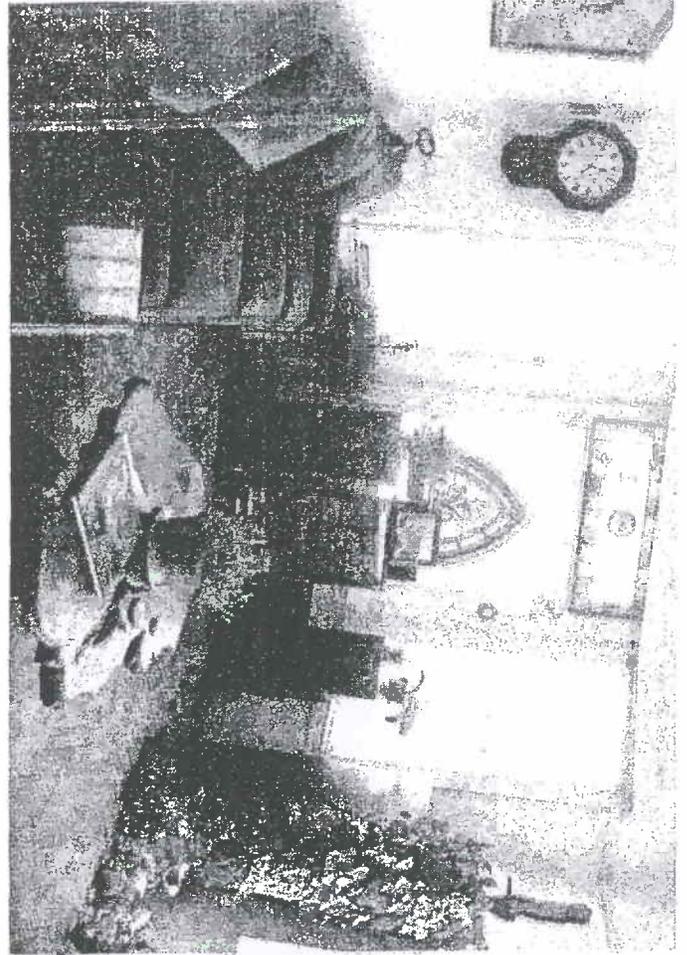
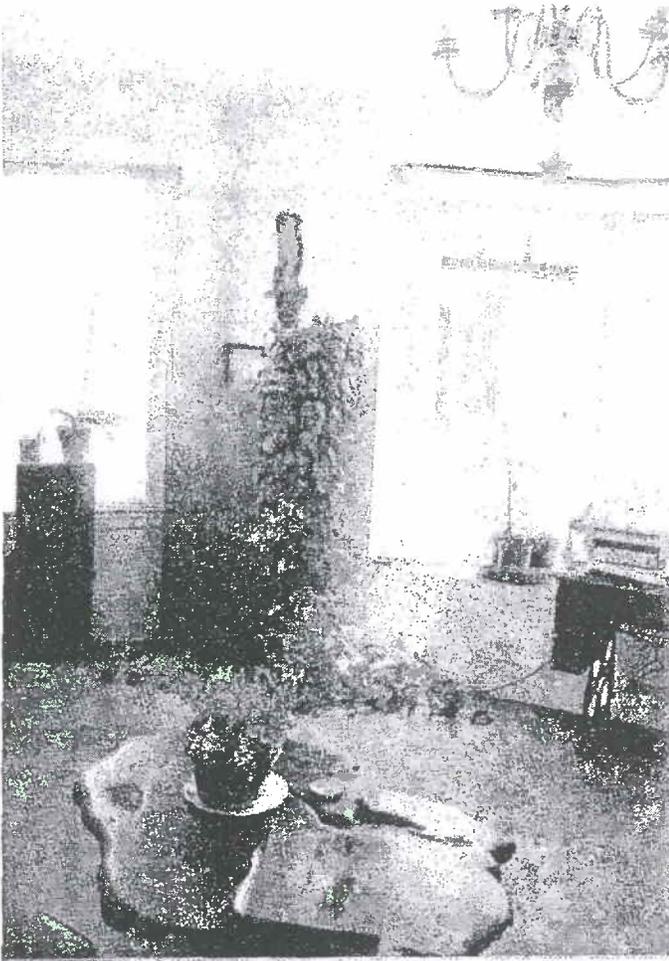


CUEENT KITCHEN SINK LEAK

EXHIBIT D

EXHIBIT D





APARTMENT PHOTOGRAPHS

EXHIBIT 5

Exhibit 13

P. 1

Department of Real Estate  
of the  
State of California

FINAL SUBDIVISION PUBLIC REPORT  
TENANCY-IN-COMMON  
UNDIVIDED INTEREST SUBDIVISION

In the matter of the application of

MDA, LLC, a California limited liability company and  
CCK 17, LLC, a California limited liability

FILE NO.: 135437SA-F00

ISSUED: FEBRUARY 15, 2011

EXPIRES: FEBRUARY 14, 2016

for a Final Subdivision Public Report on

1490 Francisco Street, Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12  
a.k.a. "1490 FRANCISCO TIC PROJECT"

JEFF DAVI  
Real Estate Commissioner

SAN FRANCISCO COUNTY, CALIFORNIA

By:   
Deputy Commissioner

CONSUMER INFORMATION

- THIS REPORT IS NOT A RECOMMENDATION OR ENDORSEMENT OF THE SUBDIVISION; IT IS INFORMATIVE ONLY.
- BUYER OR LESSEE MUST SIGN THAT (S)HE HAS RECEIVED AND READ THIS REPORT.
- A copy of this subdivision public report along with a statement advising that a copy of the public report may be obtained from the owner, Subdivider, or agent at any time, upon oral or written request, *must* be posted in a conspicuous place at any office where sales or leases or offers to sell or lease interests in this subdivision are regularly made. [Reference Business and Professions (B&P) Code Section 11018.1(b)]

This report expires on the date shown above. All material changes must be reported to the Department of Real Estate. (Refer to Section 11012 of the B&P Code; and Chapter 6, Title 10 of the California Administrative Code, Regulation 2800.) Some material changes may require amendment of the Public Report; which Amendment must be obtained and used in lieu of this report.

Section 12920 of the California Government Code provides that the practice of discrimination in housing accommodations on the basis of race, color, religion, sex, marital status, domestic partnership, national origin, physical handicap or ancestry, is against public policy.

Under Section 125.6 of the B&P Code, California real estate licensees are subject to disciplinary action by the Real Estate Commissioner if they discriminate or make any distinction or restriction in negotiating the sale or lease of real property because of the race, color, sex, religion, ancestry, national origin, or physical handicap of the client. If any prospective buyer or lessee believes that a licensee is guilty of such conduct, (s)he should contact the Department of Real Estate.

RE 618 (Rev. 10/04)

GH/OS

Page 1 of 17

File No. 135437SA-F00

1490 Francisco DR

Exhibit 13

P2

Office of the San Francisco County Recorder prior to the closing of any escrow on any interest within the project.

The subdivider advises and Section 3.3(D) of the Tenancy In Common Agreement includes in part as follows regarding eviction restrictions:

\* Eviction Restrictions "Seller is expressly authorized to invoke San Francisco Administrative Code §37.9(a)(13) ("Ellis Act") at Seller's sole expense for the purpose of evicting rental tenants from the Property without the approval of any other Cotenant. Under the circumstances described in Subsection 9.3D, Lenders and certain Parties who acquire a Cotenancy Share following a foreclosure, are also expressly authorized to invoke the Ellis Act for the purpose of evicting rental tenants from the Property. All Parties agree to cooperate in good faith in such eviction(s), with such cooperation to include them expressing a genuine intention to withdraw the Property from rental use and executing any related documents, and further agree that any action undertaken to prevent or hinder the eviction process shall be an Actionable Violation. All Cotenants acknowledge that such an eviction will need to include all renters then living in the Property, and could result in significant other burdens and restrictions. Except as provided in this paragraph and Section 9.3, no Cotenant is permitted to undertake an eviction pursuant to San Francisco Administrative Code §37.9(a)(8) ("Owner Move-In") or 37.9(a)(13) ("Ellis Act") without Unanimous Cotenant Approval. Any Party who evicts a tenant from a Unit must comply with all aspects of applicable Governmental Regulations. Any Party who violates this provision of the Agreement shall indemnify and hold harmless all other Parties from any resulting damages including attorneys' fees."

FOR INFORMATION AS TO YOUR OBLIGATIONS AND RIGHTS, YOU SHOULD READ THE TIC AGREEMENT. THE SUBDIVIDER MUST MAKE THEM AVAILABLE TO YOU.

USES AND ZONING: The zoning of the land surrounding the project are as follows:

North, south, east, west: Mixed, Single Family Development and Multi-Dwelling

HAZARDS: Pursuant to Federal Real Estate Disclosure and Notification Rule (24 CFR Part 35 and 40 CFR Part 765), the seller is required to disclose to prospective buyers that this property may contain lead-based paint and/or lead-based paint hazards as well as provide certain written materials as mandated by current law. The seller is required to offer all prospective buyers an opportunity to conduct a risk assessment for lead-based paint and lead-based paint hazards prior to being obligated under a purchase contract. This risk assessment may be waived by written agreement between buyer and seller. For more information, you should contact the local office of the Environmental Protection Agency.

At the time this public report was issued, information regarding whether all or portions of this subdivision are located within certain natural hazard areas was not yet available to the subdivider. You should ask the subdivider for updated information before obligating yourself to purchase.

TAXES: The maximum amount of any tax on real property that can be collected annually by counties is 1% of the full cash value of the property. With the addition of interest and redemption charges on any indebtedness, approved by voters prior to

1490 Francisco DR



# SAN FRANCISCO PLANNING DEPARTMENT

## RESPONSE TO DISCRETIONARY REVIEW

Case No.: 2010 12066199  
Building Permit No.: 20101206619  
Address: 1490 FRANCISCO ST

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

Project Sponsor's Name: MAXWELL BEAUMONT  
Telephone No.: (510) 324-3064 (for Planning Department to contact)

1. Given the concerns of the DR requester and other concerned parties, why do you feel your proposed project should be approved? (If you are not aware of the issues of concern to the DR requester, please meet the DR requester in addition to reviewing the attached DR application.)

WE FEEL THAT THE CONCERNS OF THE NEIGHBORS HAVE BEEN ADEQUATELY MET. WE ALSO FEEL THAT THE PROJECT WILL NOT ADVERSELY AFFECT IMPACT THE NEIGHBORS.

2. What alternatives or changes to the proposed project are you willing to make in order to address the concerns of the DR requester and other concerned parties? If you have already changed the project to meet neighborhood concerns, please explain those changes. Indicate whether the changes were made before filing your application with the City or after filing the application.

WE ARE WILLING TO INSTALL A 42" HIGH OPEN RAILING TO RESTRICT USE OF THE END FLOOR DECK 36" CLEAR OF THE NEIGHBORS BUILDING WALL. THIS CONCESSION WAS MADE AFTER FILING OUR APPLICATION.

3. If you are not willing to change the proposed project or pursue other alternatives, please state why you feel that your project would not have any adverse effect on the surrounding properties. Please explain your needs for space or other personal requirements that prevent you from making the changes requested by the DR requester.

WE ARE WILLING TO MAKE CHANGES. SEVERAL CONCESSIONS WERE MADE TO ACCOMMODATE THE NEIGHBOR (AT THEIR REQUEST) THE NEIGHBOR SUBSEQUENTLY REQUESTED AN ADDITIONAL CONCESSION.

If you have any additional information that is not covered by this application, please feel free to attach additional sheets to this form.

4. Please supply the following information about the proposed project and the existing improvements on the property.

<u>Number of</u>	<u>Existing</u>	<u>Proposed</u>
Dwelling units (only one kitchen per unit –additional kitchens count as additional units) .....	<u>12</u>	<u>12</u>
Occupied stories (all levels with habitable rooms) ...	<u>3</u>	<u>3</u>
Basement levels (may include garage or windowless storage rooms) .....	<u>1</u>	<u>1</u>
Parking spaces (Off-Street) .....	<u>        </u>	<u>        </u>
Bedrooms .....	<u>12</u>	<u>12</u>
Gross square footage (floor area from exterior wall to exterior wall), not including basement and parking areas....	<u>12,012</u>	<u>12,012</u> SF
Height .....	<u>44'-8"</u>	<u>44'-8"</u>
Building Depth .....	<u>92'</u>	<u>92'</u>
Most recent rent received (if any) .....	<u>-</u>	<u>-</u>
Projected rents after completion of project .....	<u>-</u>	<u>-</u>
Current value of property .....	<u>-</u>	<u>-</u>
Projected value (sale price) after completion of project (if known) .....	<u>-</u>	<u>-</u>

I attest that the above information is true to the best of my knowledge.


5/24/12
MAXWELL BEAUMONT

Signature
Date
Name (please print)

# Response to Discretionary Review Comments.

1490 Francisco Street, San Francisco – Proposed new 1<sup>st</sup> floor Garage roof Deck

Date: 05/25/12

## Application 201012066199 / 1490 Francisco Street

### Attachment C

It is our position that this project will not negatively impact the neighbor's privacy, light, air, noise or odor. The sill of the windows for bedroom #1 as identified in their photos are locate on the property line (existing non-conforming) approximately 72" **above the existing roof deck surface and are at present fixed windows with obscure glass.**

A new deck surface will not impact light to their bedroom or any of their units.

Currently the tenant windows on 1490 Francisco look directly into the windows at 1468 Francisco Street. The proposed deck will stop at the start of the light well on adjacent building.

### Noise issue

This deck is a private deck for Unit #3 at 1490 Francisco Street and is occupied by one of the building owners.

This building has in place an enforced noise policy and as such will not generate any additional noise as indicated by the complainant.

The setback at the rear of these properties was not provided for the neighbors as this is a separate property. Each building abutting the rear of the Octavia Street buildings have a light well integrated along the property line to provide the required light and ventilation to those building units.

The owner and resident of Unit #3 will not be using the deck to house her dog or for the dog to defecate or urinate as mentioned in the neighbor's complaint.

This deck will not be used for parties, barbeques or to have loud conversations. There has not been an instance where complaints were made about excessive noise coming from this building and as such the owners will not permit any disturbance of its residents or neighboring tenants.

2.

This is not a historic building. The proposal for a 42" high railing or wall at the roof deck will not change the character of the building, much less the block. There is a similar building at the opposite end on the block where the front above the garage has a raised wall.

Per discussion with the Fire Plan checkers, installation of a guard railing/ wall is preferable as there is none currently. This is a safety hazard for people utilizing the fire escape to evacuate the building as there is nothing preventing them from falling off the garage roof.

3.

This is a corner building and the work is being proposed at what has been designated as the rear of the property by the Planning Department. The proposed wall or railing will not negatively impact the character of the building, block or adjacent properties.

The plans have been revised to show a gate in the railing to provide access from the deck to the street below via the existing fire escape ladder.

No fence is proposed at the front of the deck.

All efforts will be taken to minimize construction noise which would be created if the deck project is approved. The noise generated would be no more than that which would be created on any small construction project on any adjoining property in City of San Francisco. All San Francisco guidelines regarding permitted construction hours would be fully observed.

#### **Attachment E**

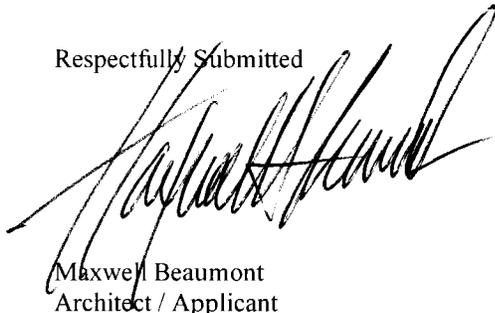
This proposed deck will be a private deck for Unit #3, where one of the building owners resides. Another separate deck is proposed for the Building roof under application # which will be accessible for all tenants.

In summary, this proposed conversion of the existing garage roof deck to a habitable deck for Unit #3 will not in any way negatively impact the light, air or safety of the Tenants at 1468 Francisco Street. It will have no impact on 3320 Octavia as mentioned in this complaint.

The following items were agreed upon to accommodate the neighbor.

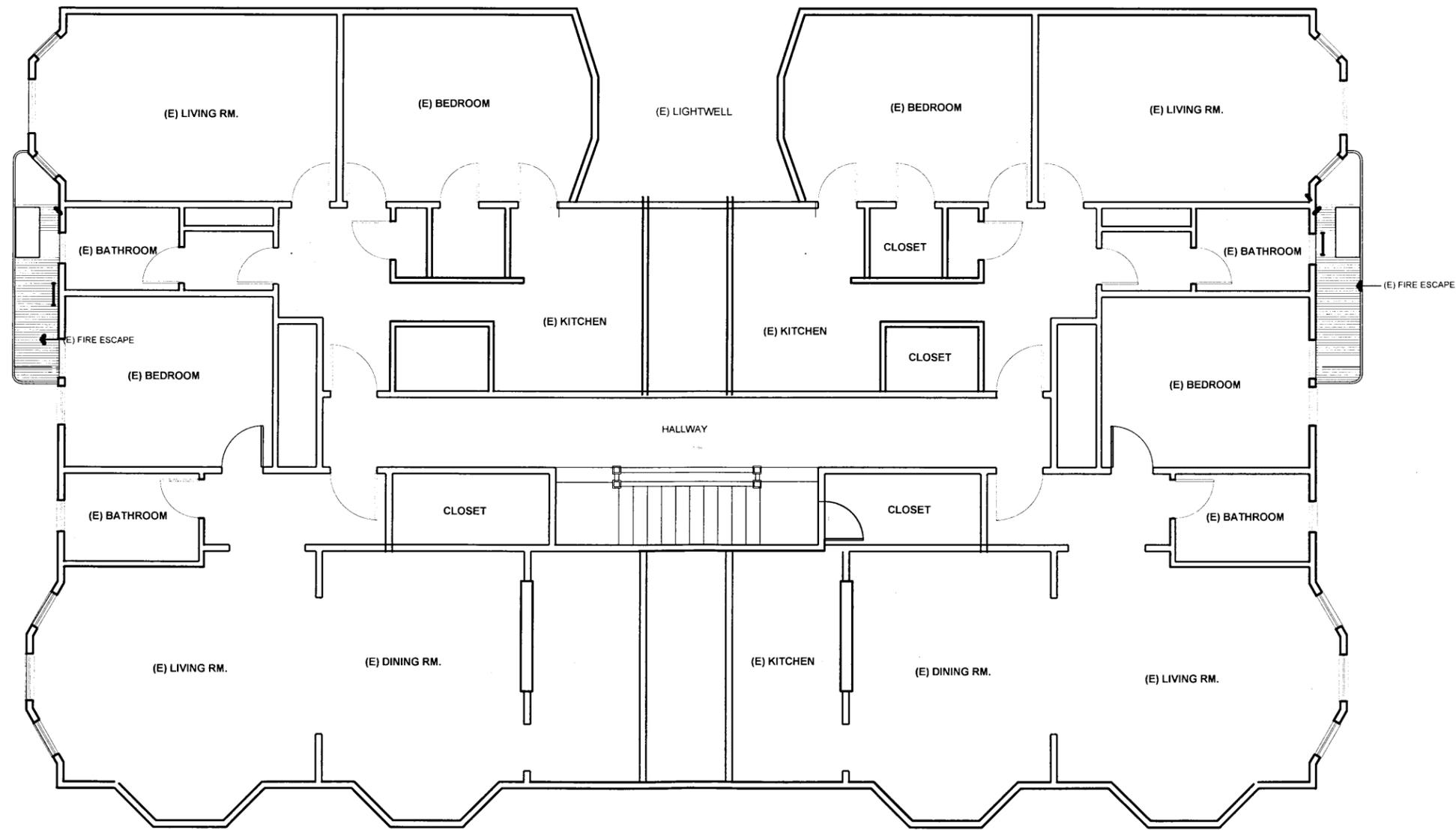
1. A 42" high solid fence would be installed 36" away from the adjacent building limiting use of the deck to areas further than 36" away from neighbor's wall. Neighbor wanted an additional 24" lattice above. This was accepted by all parties, however, the Planning code allows only a 42" high opening railing.
2. Limited hours of deck use were agreed upon .
3. Noise restrictions were agreed upon.
4. Permitted use restriction ( not outdoor barbequing allowed at rear portion of deck)

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Maxwell Beaumont', written in a cursive style.

Maxwell Beaumont  
Architect / Applicant





TYPICAL FLOOR PLAN

SCALE: 1/4"=1'-0"



REVISIONS

**Beaumont + Associates**  
 4050 Harlan Street, Emeryville California 94608  
 Tel: 510/652-4433 Fax: 510/652-5111

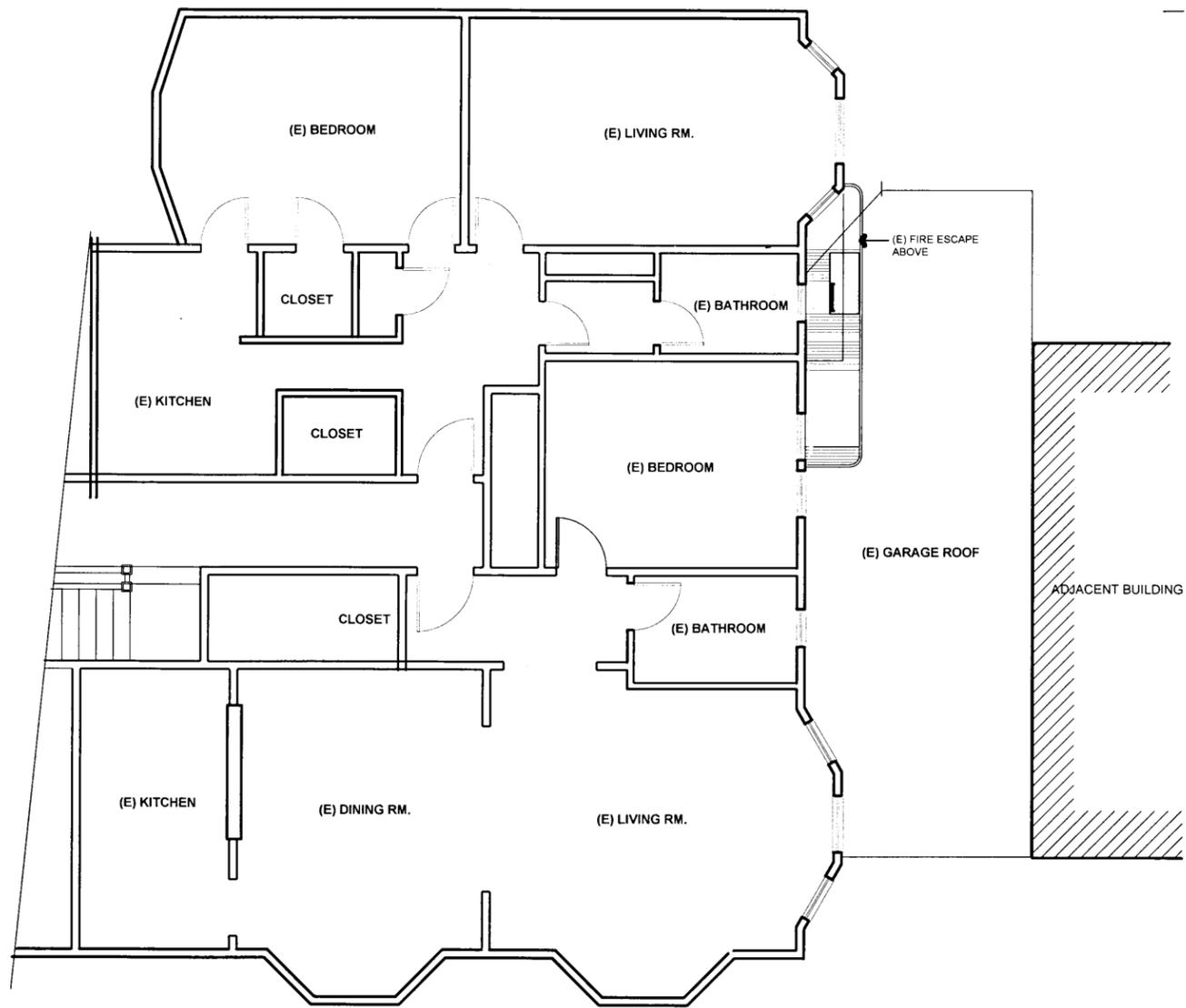


TYPICAL FLOOR PLAN

**ROOF DECK**  
 1490 FRANCISCO STREET  
 SAN FRANCISCO CALIFORNIA

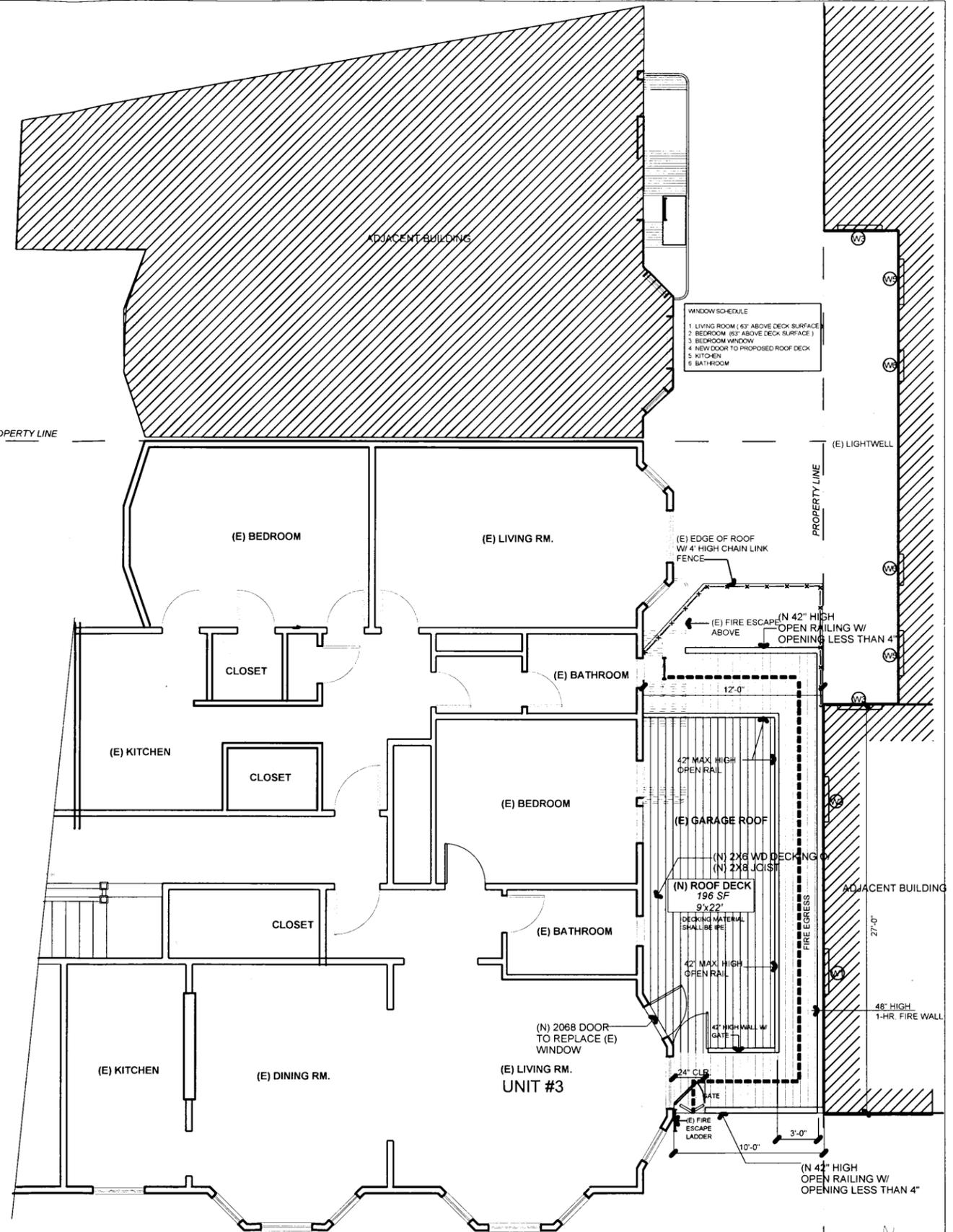
DATE 04/19/12  
 DRAWN BY MB  
 SHEET NO

**A1.0**



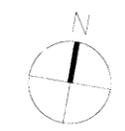
EXISTING 2ND FLOOR PLAN (PARTIAL)

SCALE: 1/4"=1'-0"



PROPOSED 2ND FLOOR PLAN (PARTIAL)

SCALE: 1/4"=1'-0"



WINDOW SCHEDULE  
 1. LIVING ROOM (6" ABOVE DECK SURFACE)  
 2. BEDROOM (6" ABOVE DECK SURFACE)  
 3. BEDROOM WINDOW  
 4. NEW DOOR TO PROPOSED ROOF DECK  
 5. KITCHEN  
 6. BATHROOM

NO.	DESCRIPTION

**Beaumont + Associates**  
 4050 Harlan Street, Emeryville California 94608  
 Tel: 510/652-4433 Fax: 510/652-5111

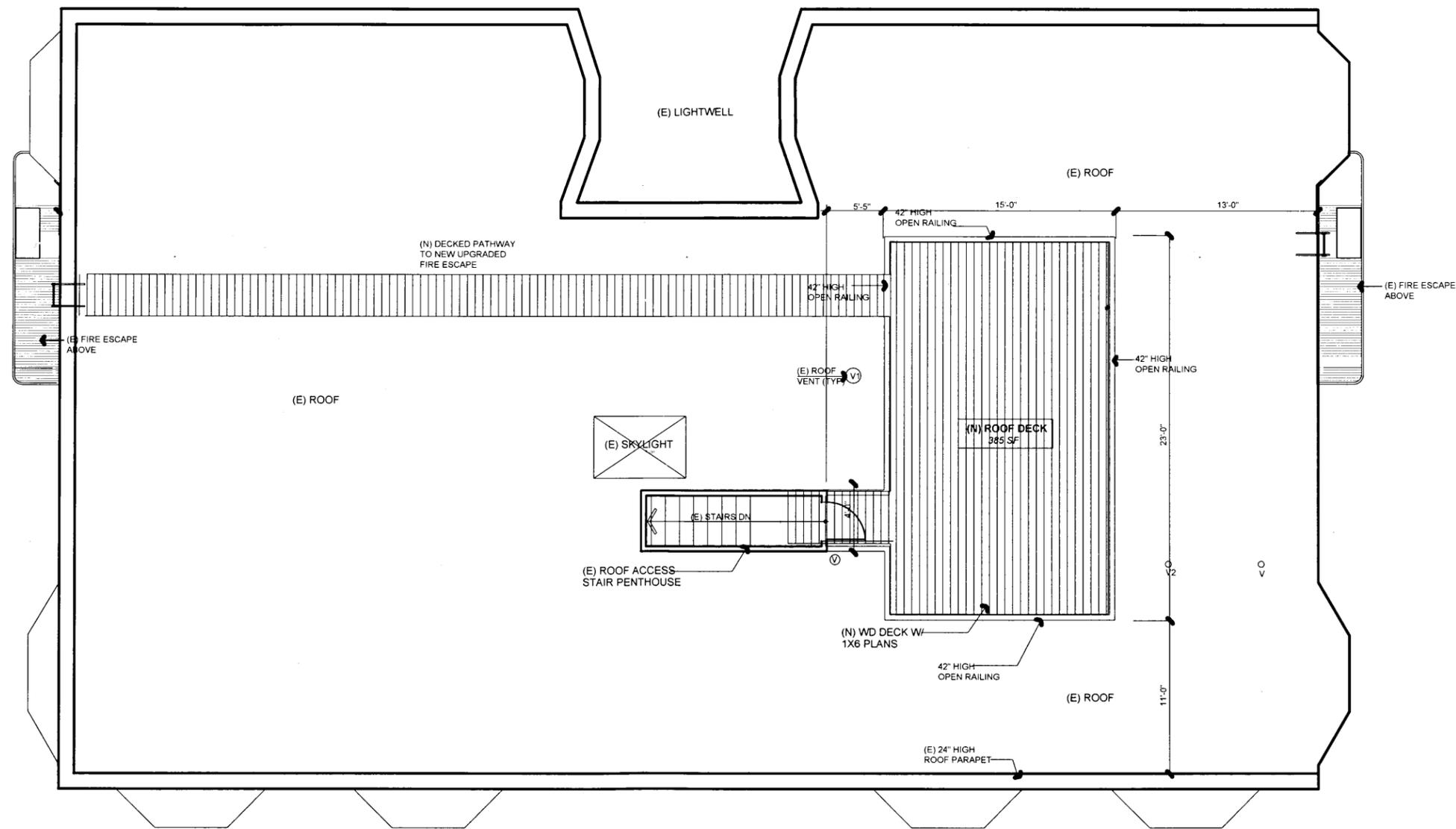


EXISTING FLOOR PLAN  
 PROPOSED FLOOR PLAN

**ROOF DECK**  
 1490 FRANCISCO STREET  
 SAN FRANCISCO CALIFORNIA

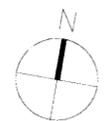
DATE 04/19/12  
 DRAWN BY MB  
 SHEET NO.

**A1.1**



PROPOSED 4TH ROOF DECK PLAN

SCALE: 1/4"=1'-0"



REVISIONS

Beaumont + Associates

4050 Harlan Street, Emeryville California 94608  
 Tel: 510/652-4433 Fax: 510/652-5111



PROPOSED ROOF PLAN

ROOF DECK

1490 FRANCISCO STREET  
 SAN FRANCISCO CALIFORNIA

DATE 04/19/12  
 DRAWN BY MB  
 SHEET NO.

A1.2



PROPOSED EAST ELEVATION

SCALE: 3/16"=1'-0"



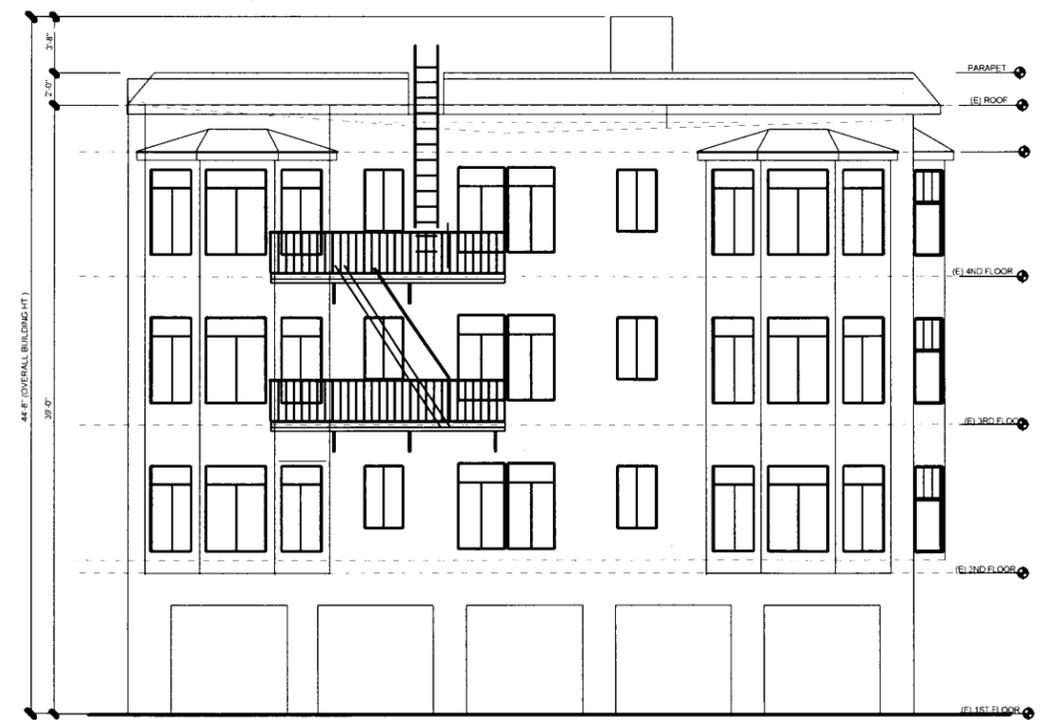
PROPOSED WEST ELEVATION

SCALE: 3/16"=1'-0"



EXISTING EAST ELEVATION

SCALE: 3/16"=1'-0"



EXISTING WEST ELEVATION

SCALE: 3/16"=1'-0"

REVISIONS

Beaumont + Associates

4050 Harlan Street, Emeryville California 94608  
Tel: 510/652-4433 Fax: 510/652-5111

EXTERIOR ELEVATIONS

ROOF DECK

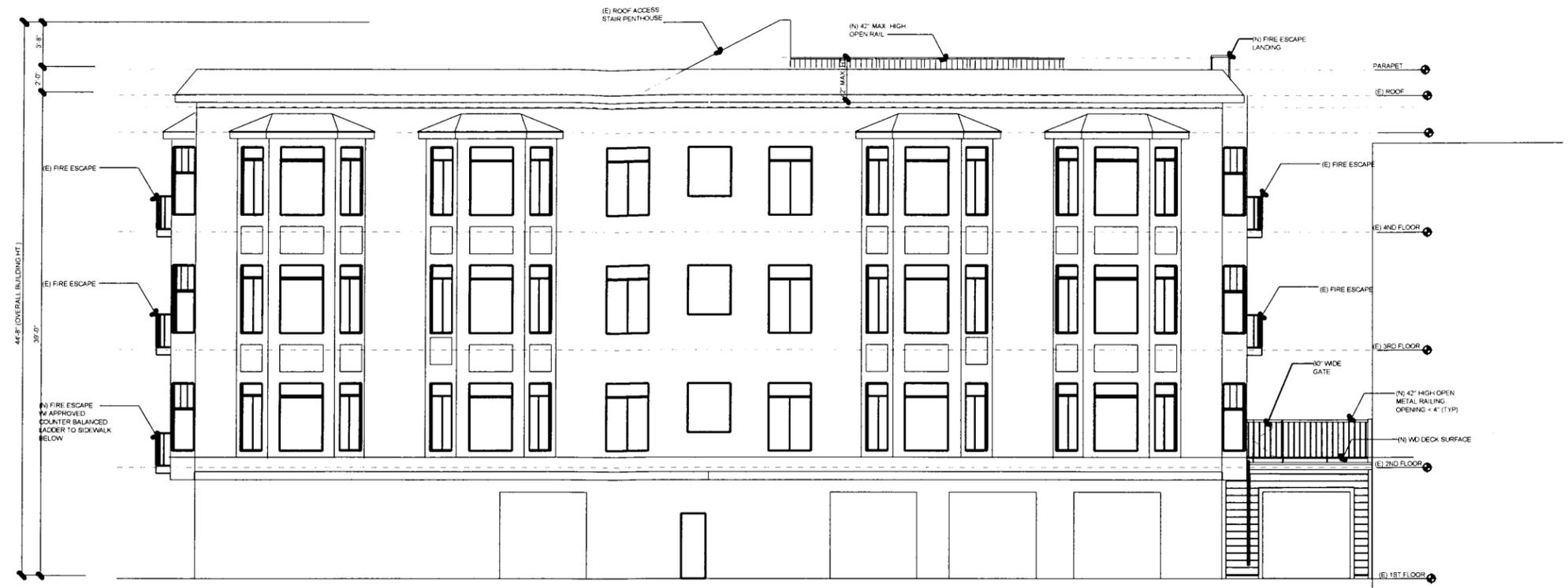
1490 FRANCISCO STREET  
SAN FRANCISCO CALIFORNIA

DATE 04/19/12

DRAWN BY MB

SHEET NO

A2.1



PROPOSED SOUTH ELEVATION  
SCALE: 3/4"=1'-0"



EXISTING SOUTH ELEVATION  
SCALE: 3/4"=1'-0"

NO.	DESCRIPTION

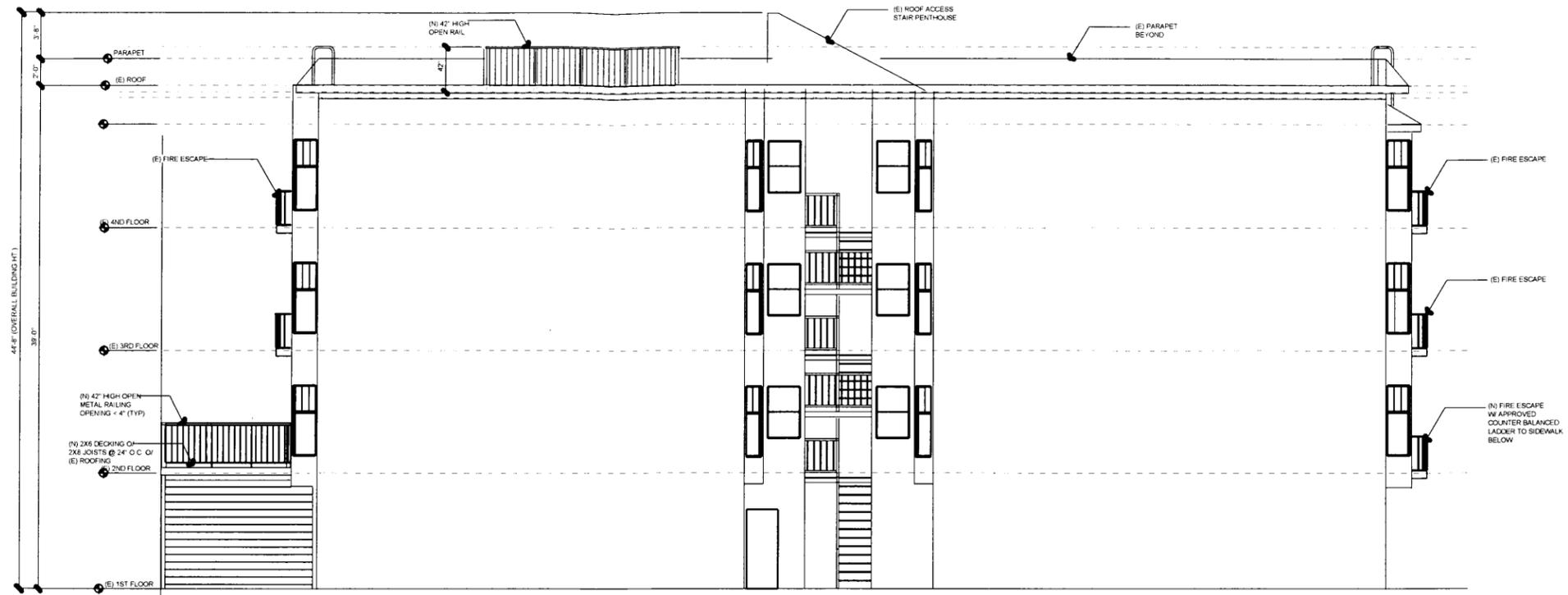
**Beaumont + Associates**  
4050 Harlan Street, Emeryville California 94608  
Tel: 510/652-4433 Fax: 510/652-5111

EXTERIOR ELEVATIONS

**ROOF DECK**  
1490 FRANCISCO STREET  
SAN FRANCISCO CALIFORNIA

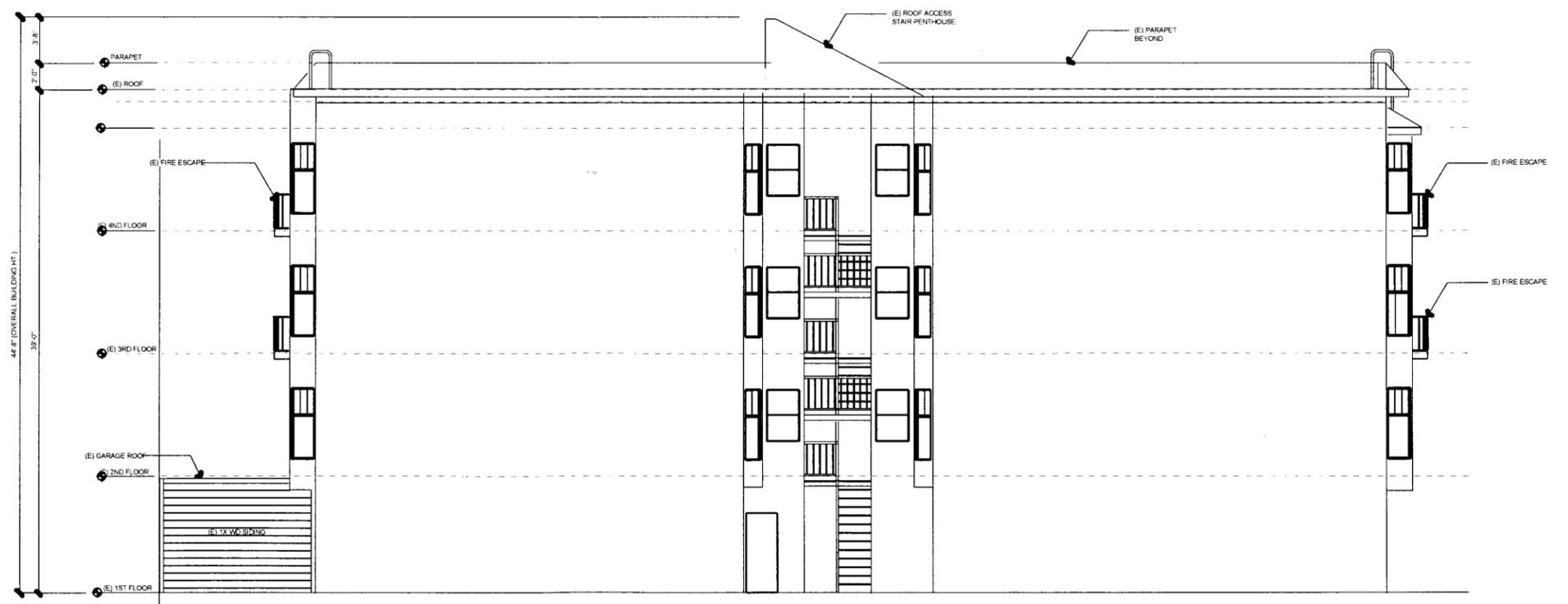
DATE 04/19/12  
DRAWN BY MB  
SHEET NO.

A2.0



PROPOSED NORTH ELEVATION

SCALE: 3/16"=1'-0"



EXISTING NORTH ELEVATION

SCALE: 3/16"=1'-0"

NO.	REVISIONS

**Beaumont + Associates**  
 4050 Harlan Street, Emeryville California 94608  
 Tel: 510/652-4433 Fax: 510/652-5111

EXTERIOR ELEVATIONS

ROOF DECK

1490 FRANCISCO STREET  
 SAN FRANCISCO CALIFORNIA

DATE 04/19/12  
 DRAWN BY MB

SHEET NO  
**A2.2**