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NEWS RELEASE

FOR IMMEDIATE RELEASE
TUESDAY, JUNE 26, 2012

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Herrera, Cohen hail tough five-year injunction to protect renters, secure $800,000 civil penalty

Community engagement was key to identifying, addressing code violations that were more widespread than originally known

SAN FRANCISCO (June 26, 2012)—A San Francisco Superior Court judge today approved a sweeping injunction in the City's litigation against Bayview Property Managers that will protect hundreds of tenants in 32 residential rental properties from substandard housing conditions while securing an $800,000 civil penalty for the City. The negotiated agreement significantly expands on a prior court order in the case after City inspectors identified other nuisance conditions at additional properties operated by the defendants. Apart from expanding the number of properties covered in the order, the amended injunction will impose new responsibilities on building managers, extend the injunctive period, and enact tough protections for renters in terms of code enforcement, oversight, and conflict resolution. Retired Superior Court Judge James Warren will serve as special master to oversee and enforce terms of the new injunction, which will remain in effect for the next five years.

City Attorney Dennis Herrera originally brought the action against Bayview Property Managers in November 2006 after an investigation identified multiple violations of state and local laws. While a Sept. 18, 2007 stipulated injunction with the defendant company and property owner James Blanding addressed issues raised in the City's original case, subsequent outreach efforts by City officials including Supervisor Malia Cohen and key community leaders uncovered more widespread violations of state law and San Francisco Housing and Building Codes. Rather than pursue the new causes of action in a separate lawsuit, Herrera worked closely with the Department of Building Inspection to expand and amend the existing injunction.

"This tough injunction expands protections for tenants at these properties, and also shows the enormous value of community engagement to identify and address code violations that threaten health and safety," said City Attorney Herrera. "I applaud Supervisor Malia Cohen for her leadership in the community, and the Department of Building Inspection for their excellent work. I'm also very grateful to Judge Kahn for approving the injunction, and to retired Judge Warren for agreeing to serve as referee to enforce its provisions."

"Protecting our neighborhoods means working closely with the community, and this injunction proves what a difference that kind of engagement can make," said Supervisor Malia Cohen. "This is a strong, enforceable court order that will protect hundreds of renters in the Southeastern neighborhoods and elsewhere in San Francisco. The era of property owners getting away neglecting their responsibilities to their tenants and the surrounding community in District 10 is over. I'm thankful to City Attorney Herrera

[MORE]

and the Department of Building Inspection for working closely with my office and the community to achieve this important success and look forward to continuing this work."

The case is: *City and County of San Francisco and People of the State of California v. Bayview Property Managers et al.*, San Francisco Superior Court Case No. CGC-06-458324, originally filed November 30, 2006.

# # #

COPY

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ENDORSED
FILED
San Francisco County Superior Court

JUN 26 2012

CLERK OF THE COURT
BY: LESLEY FISCELLA
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO, a Municipal Corporation, and the PEOPLE OF THE STATE OF CALIFORNIA, by and through Dennis J. Herrera, City Attorney for the City and County of San Francisco, Plaintiffs, vs. BAYVIEW PROPERTY MANAGERS, A California Corporation, RONALD FORTENBERRY, and DOE ONE through DOE FIFTY, inclusive, Defendants.	Case No. CGC-06-458324 **AMENDED STIPULATED INJUNCTION** Date Action Filed: November 30, 2006 Trial Date: N/A

This Amended Stipulated Injunction ("Amended Injunction" or "Order") was presented before the above-captioned Court, _____, presiding. Plaintiffs, the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, and the PEOPLE OF THE STATE OF CALIFORNIA ("Plaintiffs" or the "City"), were represented by their attorney, DENNIS J. HERRERA, City Attorney, appearing through MICHAEL S. WEISS and YVONNE R. MERÉ, Deputy City Attorneys. Defendants BAYVIEW PROPERTY MANAGERS ("BPM") and JAMES BLANDING ("Blanding"), collectively "Defendants," were represented by their attorney, DAVID ZALOB, Esq.

Plaintiffs and Defendants (the "Parties") consent to entry of this Amended Stipulated Injunction as an Order by the Court without a noticed motion, hearing or trial.

Plaintiffs originally brought this action against Defendant BPM pursuant to various provisions of state and local law including California Business and Professions Code Sections 17200-17210, California Civil Code Sections 3479, 3480, 3491, and 3494, California Code of Civil Procedure Section 731, California Health and Safety Code Sections 11570 et seq. and 17910 et seq., and the San Francisco Housing and Building Codes.

On or about September 18, 2007, Plaintiffs and Defendant BPM and Blanding entered into a Stipulated Injunction ("Original Injunction) to address certain nuisance conditions at certain residential properties owned and/or managed by Defendants.

Since entering the Original Injunction, Plaintiffs have discovered additional nuisance conditions at properties owned and/or managed by Defendants, but not covered by the Original Injunction. Rather than file a new nuisance abatement lawsuit, and in order to ensure that all of Defendants' residential rental properties in San Francisco are maintained in a safe and habitable condition, the Parties have agreed to enter into this Amended Stipulated Injunction. The Amended Injunction builds upon the Original Injunction by expanding the number of properties covered, increasing the responsibilities of management, and extending the injunctive period. The Amended Injunction also provides new and specific provisions for enforcement, oversight, and conflict resolution.

The Parties having stipulated to the provisions set forth herein, the Court having reviewed the provisions, the Parties having agreed to the issuance of this Order, and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

A. RETENTION OF JURISDICTION.

This Court has jurisdiction over the subject matter the Parties and the subject matter and each of the Parties in this action. Since 2007, the Court has expressly retained jurisdiction to interpret, implement or enforce the Original Injunction, and now expressly retains jurisdiction to interpret, implement, or enforce this Amended Injunction. The Court issues this Order pursuant to stipulation by the Parties and pursuant to its authority under Business and Professions Code Section 17203, Health and Safety Code Section 17980, Civil Code Section 3491, and Code of Civil Procedure Section 731.

B. APPOINTMENT/DESIGNATION OF REFEREE.

The Court, at the request of the Parties, hereby appoints/designates retired Superior Court Judge James Warren to act as a Special Master or Referee ("Referee"), and authorizes the Referee to exercise the power of the Court in overseeing, interpreting, implementing and/or enforcing this Amended Injunction.

Any party to this Amended Injunction or entity bound by this Amended Injunction may apply directly to the Referee, at any time, after making a reasonable effort to meet and confer with the other Parties, for further orders and directions as may be necessary or appropriate for the construction, application, carrying out or enforcement of the injunctive provisions. The Referee is authorized by this Court to hold hearings, decide issues regarding the scope and the effect of the injunction's provisions, issue orders, modify any of the injunctive provisions, and take such further action as may be necessary or appropriate to enforce the injunctive provisions, and/or to punish any violations.

Unless otherwise ordered by the Referee, all fees and expenses charged by the Referee shall be paid in advance by the Party initiating the hearing. The Prevailing Party shall be entitled to recover all fees and costs incurred, as well as reasonable attorney's fees, at market rates, as determined by the Referee.

If the Referee is unavailable to resolve a dispute, the Party seeking a hearing may file a noticed motion in the Law and Motion Department in accordance with all applicable rules and statutes. Prior to the Law and Motion Department holding a hearing on the grievance or request, the Party seeking a hearing in Law and Motion must make a threshold showing that: 1) the Referee is unavailable, and 2) the issue cannot reasonably wait until the Referee becomes available. The Prevailing Party shall be entitled to recover reasonable costs and attorney's fees, at market rates, incurred, as determined by the Law and Motion Judge.

The Parties agree that the all obligations arising out of this Amended Injunction shall rest with Defendants BPM and James Blanding, as defined herein, jointly and severally. Failure of Defendants' third party agents to perform the obligations detailed herein, shall not absolve Defendants of liability for violations of this Injunction.

C. APPLICATION AND SCOPE.

Defendants own and manage more than 30 residential properties within the City and County of San Francisco. The Parties agree that the provisions of this Amended Injunction are applicable to Defendants as well as their agents, servants, employees, representatives, successors, and assigns, lessees, and all persons acting in concert or participating with him or any of them, in connection with a property or properties owned or managed by Defendants, and located within the City and County of San Francisco. For purposes of this Injunction, the term Property or Properties shall be defined to include any real property identified or described in Exhibits A-B. Plaintiffs agree to work with Defendants and Defendants agents to assist Defendants in meeting their obligations arising out of this Injunction.

D. NOTICE TO SUBSEQUENT INTEREST HOLDERS.

Should Defendants BPM or Blanding, or their agents, employees, successors or assigns, and the agents, employees, successors and assigns of each of them, sell, transfer, assign, lease, or sublease any of the Properties, or portions thereof, before the nuisance caused by the Building Code any outstanding Municipal Code violations haves been abated and the abatement confirmed by the San

Francisco Department of Building Inspection, then Defendants, or their agents, employees, successors, or assigns, and the agents, employees, successors, or assigns of each of them shall:

1. Immediately provide written notice to the San Francisco City Attorney's Office Code Enforcement Division of their intent to sell, transfer, assign, or otherwise alienate the Property or Properties, or portions thereof, and provide the name and contact information of the prospective successor or their agents, and disclose any personal relationship between Defendants and the potential successor;

2. Prior to forming the sale, transfer, assignment, or lease agreement, give the potential successor in interest notice and provide him/her with a copy of this Amended Injunction;

3. Prior to the transfer of title, and/or through escrow, pay all amounts owed to the City related to the Property or Properties being alienated; and

4. Require the successor in interest, as a condition of sale, transfer, or assignment, to sign an Addendum to this Amended Injunction (attached hereto as Exhibit C), agreeing to submit to this Court's jurisdiction, and agreeing to be bound by this Amended Injunction's terms, without limitation or restriction.

E. CURRENT DBI CODE VIOLATIONS.

Defendants BPM and Blanding each acknowledge that one or more Properties have current and open citations, notices of violation, and orders of abatement (hereinafter, "Outstanding DBI Enforcement Action/s") for Building, Housing, Plumbing, Electrical and/or Mechanical Code violations issued by the Department of Building Inspection ("DBI"). Defendants must comply with all of the following:

1. For all Outstanding DBI Enforcement Actions with open deadlines that have not yet expired, Defendants must abate all violations (including obtaining permits, obtaining inspections, paying all assessments to DBI and obtaining all necessary sign-offs from DBI) within the time period determined by DBI in the Outstanding DBI Enforcement Action, or other deadlines or extensions approved by DBI; and

2. For Outstanding DBI Enforcement Actions in which deadlines are now past due, Defendants must abate the outstanding violations (including obtaining all proper permits, obtaining final inspections, paying all assessments to DBI and completing all work to the satisfaction of DBI) by September 15, 2012.

F. FUTURE CODE VIOLATIONS

Following entry of this Amended Injunction, if and when Defendants receive any new Notices of Violation, Citations, Orders of Abatement or any other administrative notices or orders (hereinafter "Administrative Action/s") from DBI, or any other City Department, including, but not limited to, the San Francisco Fire, Health, and Planning Departments regarding the Properties, Defendants shall comply with all of the following:

1. Provide written notice to the City Attorney's Office, Code Enforcement Division within 5 days of the issuance of the Administrative Action;

2. Abate the code violations within the time specified by the City Department (i.e DBI) in their Administrative Action;

3. If permits are required to abate the violation, Defendants shall apply for and obtain required and appropriate permits for the scope of the work to be undertaken.

G. DBI ADMINISTRATIVE FEES

For any Outstanding DBI Enforcement Actions or future Administrative Actions, Defendants shall be liable for, and separately pay directly to DBI, or any other appropriate City Department, all administrative fees incurred in the course of inspections, investigations, and assessments. The payment of administrative fees shall be made directly to the appropriate City Department upon demand, including all outstanding fees and all fees incurred during the pendency of this Injunction. Any monies paid pursuant to this Amended Injunction are separate and apart from any administrative fees.

H. OTHER INJUNCTIVE PROVISIONS

The Parties further agree that in order to proactively address potential public nuisances at the Properties, Defendants, their servants, agents, employees, lessees, successors and assigns, and the servants, agents, employees, lessees, successors and assigns of each of them, and all other persons acting on their behalf, must do all of the following throughout the effective period of this Injunction:

1. Inspection and Repair Timeframes

a. Within thirty days of execution of this Injunction, Defendants shall provide Plaintiffs with electronic access to "Central Desktop", a property management database that will enable Plaintiffs to track complaints, repairs and maintenance information related to Defendants' Properties.

b. Within sixty days of execution of this Injunction, Defendants shall provide Plaintiffs with an inspection protocol and associated plan to inspect all units within Defendants' Properties.

c. Defendants shall abate all Outstanding DBI Enforcement Actions by September 15, 2012.

d. Defendants shall inspect all Properties, and the inspection shall include, but is not limited to, an assessment from a moisture retention perspective, by December 31, 2012 (hereinafter, "Annual Inspection/s"). Defendants shall tender a written report (hereinafter, "Annual Inspection Report/s") to Plaintiffs no later than January 30, 2013, containing all of the following: a building by building description of the inspection methodology and findings, the recommended repairs, and the proposed remediation plan. Defendants shall remediate all habitability and substandard housing conditions observed during the Annual Inspection, even if the conditions are not yet the subject of active DBI enforcement or other Administrative Actions, within thirty days of discovery, subject to extension for good cause, unless otherwise ordered by DBI. Defendants shall conduct Annual Inspections by December 31 of each year for the duration of this Injunction, and shall submit to Plaintiffs an updated Annual Inspection Report within thirty days of those inspections, and to abate those any discovered conditions within thirty days of discovery, subject to extension for good cause, unless otherwise ordered by DBI.

e. One year after entry of this Injunction, in the absence of good cause, if Defendants have, without good cause, failed to comply with any of the above deadlines enumerated herein, Defendants shall, within thirty days of the one year anniversary, employ and retain an outside third party management company to take over all management duties related to the Properties throughout the remaining effective period of the Injunction.

2. Third Party Licensed Contractor to Oversee

Defendants shall employ and retain an independent, third party licensed contractor, who will oversee the abatement of all Outstanding DBI Enforcement Actions, Administrative Actions, and other outstanding violations. The third party licensed contractor shall conduct and/or oversee all repairs within the effective period of this Amended Injunction to the satisfaction of DBI or other appropriate City Department. For purposes of this Amended Injunction, the third party licensed contractor shall in no circumstance be either 1) any of the Defendants in this action, or 2) any contractor who is or has been employed by Defendants.

3. Quality of Repairs

Defendants shall ensure that all repairs are done in a professional, workmanlike manner, consistent with industry standards.

I. UNFAIR AND UNLAWFUL BUSINESS PRACTICES.

Defendants their servants, agents, employees, successors and assigns, and the servants, agents, employees, successors, and assigns of each of them, and all other persons are hereby restrained and enjoined from engaging in the following unfair and unlawful business practices:

1. Maintaining, operating, occupying or using any of the Properties in such a manner and condition as to constitute a public nuisance;

2. Maintaining, operating, occupying or using any of the Properties in such a manner as to constitute an unfair and/or unlawful business act or practice as described by California Business and Professions Code Sections 17200-17210; or

3. Maintaining, operating, occupying or using any of the Properties in such a manner as to constitute violations of any provision of municipal or state law.

J. INSPECTION.

In order to monitor compliance with this Order, Defendants shall allow, and Plaintiffs may conduct:

1. Periodic unannounced inspections of any of the Properties' exterior and interior common areas, accessible without use of keys, to determine compliance with San Francisco Municipal Codes (i.e., Housing, Building, Fire, Health and Planning Codes).

2. Upon 72 hours written notice from Plaintiffs, Plaintiffs shall conduct and Defendants shall facilitate City inspections of the interior of the Properties, including individual units, to determine whether the Properties' condition is compliant with the San Francisco Municipal Codes. Defendants shall reimburse the City for any costs, including attorney's fees, incurred in its efforts to gain entry to any unit. Defendants agree to notice and conduct those inspections in accordance with the provisions of California Civil Code section 1954. Defendants shall abate any violations discovered during such inspections within the time period given by the inspector, or be in violation of this Amended Injunction.

K. FEES, COSTS, AND PENALTIES.

Defendants shall pay a civil penalty in the amount of $800,000 ("Civil Penalty.") Concurrently with the execution of this Amended Injunction, the Parties have executed a Stipulated Judgment. Plaintiffs agree not to file the Stipulated Judgment, so long as the installment payments described below are timely received in accordance with this Injunction. Defendants shall pay the Judgment agree to pay the Civil Penalty in up to three installments as follows:

1. Defendant shall pay $275,000 by April 15, 2012;

2. Defendant shall pay $275,000 by September 15, 2012; and

3. Defendant shall pay $250,000 by January 15, 2013.

4. Failure to pay in the amount or manner described herein shall also be deemed a violation of this Amended Injunction.

5. Payments shall be delivered to the City Attorney's Office, 1390 Market Street, Sixth Floor, San Francisco, CA 94102, Attention: Yvonne R. Meré, Deputy City Attorney. The payment shall be by cashier's check or money order, and made payable to "City and County of San Francisco."

6. Any payment made pursuant to this Injunction shall be deemed untimely if there are insufficient funds to satisfy the tendered payment. Should Defendants fail to make timely installment payments consistent with this Amended Injunction, Plaintiffs shall have the right to file the Stipulated Judgment previously executed by the Parties, and to record the same. Moreover, the failure to pay any, or all, of this Civil Penalty according to the terms herein, shall be deemed a violation of this Amended Injunction and subject Defendants to additional penalties described elsewhere in this Amended Injunction.

L. ENFORCEMENT.

1. Violation of any provision of this Injunction may constitute contempt of court as described in California Code of Civil Procedure section 1218, et seq. If the Referee, or, if he is unavailable, the Court, determines after hearing that Defendants violated any of the terms of this Injunction, Defendants shall be liable for civil penalties of no less than $2,500 and no more than $6,000 for each violation of this Injunction pursuant to Business and Professions Code Sections 17206 and 17207.

2. In addition, in the event that it is determined, after hearing, that Defendants were cited for new municipal code violations during the pendency of this Injunction, and the violations existed but were not corrected within the time limit provided by the inspecting agency, Defendants shall pay additional applicable civil penalties of up to $1,000 per day for each day the violations were permitted to remain after the period of time to correct had expired.

3. The prevailing party Plaintiffs shall be entitled to recover their attorneys' fees (at market rate) and all costs incurred in monitoring compliance with and/or enforcing this Injunction, including expert witness fees.

4. Any fines, penalties, or other monetary relief specified in this Injunction shall be in addition to any other relief or sanctions that the Referee, or, if he is unavailable, the Court, may order

as a matter of law or equity, and shall not preclude Plaintiffs from obtaining other penalties or relief prescribed by law.

5. The San Francisco Superior Court expressly reserves jurisdiction to take such further action as may be necessary or appropriate to carry into effect the provisions of this Injunction.

6. Any Party seeking to enforce the provisions of this Injunction shall be responsible for advancing any up-front costs required by the Referee, subject to reimbursement as determined by the Referee.

M. EFFECTIVE DATE AND TERM OF INJUNCTION.

Unless otherwise stated, Defendants shall comply with the terms of this Injunction upon entry by the Court. The terms of this Injunction shall be in effect for 5 years from the date of entry. For good cause shown, or upon stipulation by the Parties, any Party may ask the Referee, or if he is unavailable, the Court, to extend and/or modify the terms of this Injunction.

N. RECEIVERSHIP.

In the event that Defendants fail to take the actions required by this Amended Injunction, or fail to act within the time limits prescribed herein, Plaintiffs may request the appointment of a receiver to manage the Properties and abate the violations and the nuisance. If a receiver is appointed to manage the Properties and/or to abate the violations, Defendants must, upon demand, reimburse the receiver and the City for all costs and expenses related to the receivership, including attorneys' fees and costs. If Defendants fail to reimburse the receiver and/or the City, a lien for the amounts expended shall be placed upon the title to any of the Properties, and/or the receiver or the City may seek permission to sell one or more Properties to reimburse the receiver and/or the City.

O. RECORDATION.

This Injunction shall be filed with the San Francisco Superior Court and recorded at the San Francisco Recorder's Office against the title to the Properties. The Stipulated Judgment shall not be recorded unless Defendants breach this Amended Injunction.

P. NO WAIVER OF RIGHT TO ENFORCE.

The failure of Plaintiffs to enforce any provision of this Amended Injunction, shall in no way be deemed a waiver of such provision or in any way affect the validity of the Amended Injunction. The failure of Plaintiffs to enforce any such provision shall not preclude Plaintiffs from later enforcing the same or any other provision of the Amended Injunction. No oral advice, guidance, suggestion or comments by Plaintiffs' employees or officials regarding matters covered in the Amended Injunction shall be construed to relieve Defendants of their obligations.

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Q. DISMISSAL.

Once Defendants have complied fully with all terms of this Injunction and paid any amount imposed by the Court pursuant to its terms, Plaintiffs will dismiss this action.

SO STIPULATED:

Dated: 6-22-12

DENNIS J. HERRERA
City Attorney
ALEX G. TSE
Chief Attorney, Neighborhood and Resident Safety Division
MICHAEL S. WEISS
Deputy City Attorney

By: _____
YVONNE R. MERE
Deputy City Attorney

By: _____
MICHAEL S. WEISS
Deputy City Attorney
Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and PEOPLE OF THE STATE OF CALIFORNIA

DATED: 5/29/12 _____
BAYVIEW PROPERTY MANAGERS

DATED: 5/29/12 _____
JAMES BLANDING

APPROVED AS TO FORM:

DATED: MAY 25, 2012 _____
Attorney for Defendants

SO ORDERED:

DATED: 6/26/12 HAROLD KAHN
JUDGE OF THE SUPERIOR COURT