



CITY ATTORNEY DENNIS HERRERA

NEWS RELEASE

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 26, 2009

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Herrera Sues Bridge Motel for 'Egregious Pattern' of Crime, Safety Code Violations

Litigation against owners and operators of notorious Marina District residential hotel seeks tough court-ordered injunction, penalties

SAN FRANCISCO (Oct. 26, 2009)—City Attorney Dennis Herrera today filed suit against the owners and operators of the Bridge Motel, a notorious residential hotel in the City's Marina District that has been the site of at least 91 calls to police in the last seven months alone for incidents relating to violence, drugs, grand theft, weapons possessions, terrorist threats and a variety of other illegal and nuisance activity. The civil complaint filed in San Francisco Superior Court this morning additionally details a pattern of housing, fire and health code violations by owners and management, who repeatedly defied notices of violation and orders of abatement by inspectors from San Francisco's Building, Fire and Health Departments.

"The Bridge Motel has plagued its neighbors and residents for far too long with an egregious pattern of crime and safety code violations," said Herrera. "This establishment's owners and operators have demonstrated a shocking disregard for health and safety, and a defiant attitude toward the City inspectors who pushed them to obey the law. We have no choice but to seek a tough, enforceable court order to end this public nuisance, and to impose penalties to ensure it never happens again. I am very grateful to the San Francisco Police, Fire, Building, and Public Health Departments for all of their efforts and assistance in enabling us to bring this litigation today."

Named as defendants in the Herrera's lawsuit are Tarunkumar, Vinodkumar, Sangita and Vyomesh Patel, who, together with their affiliated trusts, own the property at 2524 Lombard Street; and Mohammed and Nasir Shaikh, who are believed to operate the Bridge Motel.

The City Attorney's complaint details a panoply of criminal activity since August 2008 that establish the residential hotel as a public nuisance within the meaning of state law, including arrests for: armed robbery, burglary, theft and forcible entry; battery and domestic violence; possession of stolen property, including a stolen vehicle; fraudulent use of an automated teller card; counterfeit currency; failure to register as a sex offender; drug sales and possession, including methamphetamine and heroin possession; throwing hypodermic needles into neighboring yards; terrorist threats, malicious mischief, vandalism to property and vehicles; parole and probation violations; and warrant arrests.

The complaint also enumerates a raft of code violations dating back to 2005, including notices of violations from the Department of Building Inspection involving fire safety, lack of heating, insufficient

[MORE]

and inoperable bathrooms; clogged toilets, broken sinks and faucets; water leaks, broken windows and sash frames; missing guardrails; deteriorated concrete; damaged walls; accumulated garbage and debris; and rodent infestation. Code violations repeatedly identified by the Department of Public Health since 2006 include extensive cockroach and bedbug infestation; overflowing garbage and refuse throughout the building; befouled carpeting; mold; and lack of running water. The Fire Department Bureau of Fire Protection additionally identified code violations since 2006 that include: hazardous accumulation of combustible materials and trash; electrical extension cords used in lieu of permanent wiring; lack of working smoke detectors; lack of proof of fire alarm certification; blocked exit stairways; and double-sided locks in violation of the San Francisco Fire Code.

The case is *City and County of San Francisco and People of the State of California v. Tarunkumar K. Patel et al.*, San Francisco Superior Court, Filed Oct. 26, 2009.

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COPY

ENDORSED
FILED
Superior Court of California
County of San Francisco

OCT 26 2009

GORDON PARK-LI, Clerk
BY: DEBORAH STEPPE
Deputy Clerk

CASE MANAGEMENT CONFERENCE SET

MAR 26 2010 - 9:00 AM

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9 PEOPLE OF THE STATE OF CALIFORNIA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

13 CITY AND COUNTY OF SAN
14 FRANCISCO, a Municipal Corporation, and
the PEOPLE OF THE STATE OF
15 CALIFORNIA, by and through DENNIS J.
HERRERA, City Attorney for the CITY AND
16 COUNTY OF SAN FRANCISCO,

17 Plaintiffs,

18 vs.

19 TARUNKUMAR K. PATEL, as Trustee, or
any Successor Trustee(s) of the PATEL
20 FAMILY REVOCABLE TRUST DATED
DECEMBER 31, 2002; VINODKUMAR R.
21 PATEL and SANGITA V. PATEL, as Trustees
of THE VINODKUMAR R. PATEL AND
22 SANGITA V. PATEL LIVING TRUST,
DATED AUGUST 29, 2001; VYOMESH R.
23 PATEL, as Trustee of THE VYOMESH R.
PATEL LIVING TRUST, DATED AUGUST
24 29, 2001; MOHAMMED SHAIKH; NASIR
SHAIKH; and DOE ONE through DOE
25 FIFTY, inclusive,

26 Defendants.

Case No. CGC-09-493770

COMPLAINT FOR INJUNCTIVE AND OTHER
RELIEF

Type of Case: (42) Other Complaint

1 The CITY AND COUNTY OF SAN FRANCISCO ("City"), a municipal corporation, and
2 THE PEOPLE OF THE STATE OF CALIFORNIA, by and through San Francisco City Attorney
3 Dennis J. Herrera (collectively, "Plaintiffs"), file their complaint against TARUNKUMAR K. PATEL,
4 as Trustee, or any Successor Trustee(s) of the PATEL FAMILY REVOCABLE TRUST DATED
5 DECEMBER 31, 2002; VINODKUMAR R. PATEL and SANGITA V. PATEL, as Trustees of THE
6 VINODKUMAR R. PATEL AND SANGITA V. PATEL LIVING TRUST, DATED AUGUST 29,
7 2001; VYOMESH R. PATEL, as Trustee of THE VYOMESH R. PATEL LIVING TRUST, DATED
8 AUGUST 29, 2001; MOHAMMED SHAIKH; NASIR SHAIKH, and DOE ONE through DOE
9 FIFTY, inclusive (collectively, "Defendants"). Plaintiffs hereby allege as set forth below:

10 INTRODUCTION

11 1. This action arises out of Defendants' ownership, lease, maintenance, operation, and
12 management of the property located at 2524-2532V Lombard Street, San Francisco, California.

13 2. Defendants use the property at 2524-2532V Lombard Street as a Single Resident
14 Occupancy Motel ("SRO").

15 3. The property is operated in a fashion that harbors criminal activity and violations of
16 habitation law, maintaining thereby a public nuisance.

17 4. By maintaining the property at 2524-2532V Lombard Street in a manner fostering
18 criminal activity, and as a public nuisance, Defendants are in violation of Health and Safety Code
19 Sections 11570-11587 (the "Drug Abatement Act").

20 5. By maintaining the property at 2524-2532V Lombard Street as substandard housing,
21 and as a public nuisance, Defendants have violated Health and Safety Code Sections 179220-17980.9
22 (the "State Housing Law").

23 6. By maintaining the property at 2524-2532V Lombard Street as substandard housing,
24 and as a public nuisance, Defendants have violated the San Francisco Housing Code.

25 7. By maintaining the property at 2524-2532V Lombard Street as substandard housing,
26 and as a public nuisance, Defendants have violated the San Francisco Health Code.

27 8. By maintaining the property at 2524-2532V Lombard Street in violation of numerous
28 provisions of state and local law, and as a public nuisance, Defendants are engaging in unfair and

1 unlawful business practices in violation of Business and Professions Code Sections 17200-17210 (the
2 "Unfair Competition Law" or "UCL").

3 **PARTIES AND SUBJECT PROPERTY**

4 9. Plaintiff City and County of San Francisco is a municipal corporation organized and
5 existing under and by virtue of the laws of the State of California.

6 10. The City and County of San Francisco brings this action under Civil Code Sections
7 3479, 3480, 3491, 3494, and Code of Civil Procedure Section 731, and Health and Safety Code
8 Sections 11570-11587 and 17920 -17992.

9 11. The People of the State of California, by and through San Francisco City Attorney
10 Dennis J. Herrera, bring this action pursuant to Civil Code Sections 3479, 3480, 3491, 3494, Code of
11 Civil Procedure Section 731, and the Unfair Competition Law.

12 12. The property is a building operated as a single resident occupancy hotel ("SRO"),
13 commonly known as the Bridge Motel (the "Bridge Motel"), located at 2524-2532V Lombard Street,
14 Block 935, Lots 3 and 4, in the City and County of San Francisco, State of California (the "Property")
15 and more particularly described in Exhibit A, which is attached hereto and incorporated as part of this
16 Complaint.

17 13. Plaintiffs are informed and believe, and therefore allege, that at all times herein
18 mentioned, Defendant Mohammed Shaikh and Nasir Shaikh have been the lessees of the Property and
19 as owners, managers, and operators of the SRO operating as the Bridge Motel.

20 14. Plaintiffs are informed and believe, and therefore allege, that at all times herein
21 mentioned Mohammed Shaikh and Nasir Shaikh personally managed and made business decisions
22 concerning the operation of the Bridge Motel.

23 15. Plaintiffs are informed and believe, and therefore allege, that at all times herein
24 mentioned Tarunkumar K. Patel, as Trustee, or any Successor Trustee(s) of the Patel Family
25 Revocable Trust dated December 31, 2002; Vinodkumar R. Patel and Sangita V. Patel, as Trustees of
26 The Vinodkumar R. Patel and Sangita V. Patel Living Trust, dated August 29, 2001; Vyomesh R.
27 Patel, as Trustee of The Vyomesh R. Patel Living Trust, dated August 29, 2001 have been the owners
28 of the Property at all times pertinent to this complaint.

1 25. On December 10, 2008, SFPD arrested a Bridge Motel resident of Room 11 for a
2 warrant arrest to an outside jurisdiction.

3 26. On December 21, 2008, SFPD arrested a Bridge Motel resident of Room 28 for theft.

4 27. On December 24, 2008, SFPD arrested a Bridge Motel resident of Room 7, a known
5 sex offender, for failure to register for sexual assault of adult, and parole violation (not to be alone
6 with a female but had a woman in his room).

7 28. On December 29, 2008, SFPD arrested a Bridge Motel resident of Room 37 for robbery
8 with a knife and resisting/obstructing a peace officer's duty.

9 29. On February 11, 2009, SFPD arrested a Bridge Motel resident of Room 22 for
10 possession of property relating to a local automobile burglary, probation violation, possession of a
11 controlled substance, and throwing hypodermic needles from a window of the motel into neighboring
12 yards.

13 30. On February 27, 2009, SFPD arrested the same Bridge Motel resident of Room 22 for
14 stolen property from a local automobile burglary, fraudulent use of an automated teller card, and
15 possession of heroin and hypodermic needles.

16 31. On March 1, 2009, SFPD arrested a Bridge Motel resident of Room 11 for drug sales
17 and parole violation. The reporting officer noted that "The Bridge Motel is plagued with criminal
18 activities, primarily narcotics, possession, sale and use. [...] It should also be noted that I have made
19 numerous arrest of subjects within the motel and of subjects who reside in the motel."

20 32. On March 19, 2009, SFPD arrested a Bridge Motel resident of Room 4 for counterfeit
21 currency.

22 33. On March 29, 2009, SFPD arrested a Bridge Motel resident of Room 8 for
23 methamphetamine offense, narcotics paraphernalia and probation violation.

24 34. On April 21, 2009, SFPD arrested a Bridge resident of Room 27 who was swinging a
25 golf club in the hallway and throwing glass bottles from second story window onto the street.

26 35. On April 24, 2009, SFPD arrested a man for drug sales. The man had been allowed
27 into the building through a rear emergency exit by a Bridge resident of Room 31.

28

1 36. On May 5, 2009, SFPD held a Bridge Motel resident of Room 40 for investigative
2 detention and threatening an officer.

3 37. On June 14, 2009, SFPD arrested a Bridge Motel resident of Room 31 for terrorist
4 threats, malicious mischief, vandalism to property and vehicle, battery, under the influence, and
5 throwing bottles and furniture out of room window into the neighboring parking lot. SFPD noted they
6 had responded twice before on this individual, once for a fight.

7 38. On July 10, 2009, SFPD responded to a fight and a report of past domestic violence
8 within the Bridge Motel relating to the resident in Room 31.

9 39. On July 12, 2009, SFPD held for mental health detention a Bridge Motel resident of
10 Room 27 for being a danger to himself or others.

11 40. On July 16, 2009, SFPD arrested a Bridge Motel resident of Room 41 for a warrant for
12 an outstanding felony.

13 41. On August 10, 2009 SFPD held for mental health detention a Bridge Motel resident of
14 Room 22 for being a danger to himself or others.

15 42. On October 18, 2009, SFPD arrested a Bridge Motel resident of Room 34 for
16 methamphetamine possession for sale and parole violation.

17 **II. VIOLATIONS OF LOCAL CODES AT THE BRIDGE MOTEL**

18 **A. Department of Building Inspection**

19 43. Beginning in 2005, the San Francisco Department of Building Inspection ("DBI") has
20 inspected the Property, found violations, and issued Notices of Violations ("NOV") of the San
21 Francisco Housing Code.

22 44. On February 1, 2005, DBI issued a NOV for an expired permit to repair fire damage
23 and to maintain a one-hour, fire-restrictive barrier between the commercial and residential portions of
24 the building.

25 45. On February 18, 2005, DBI issued a NOV for a community shower locked from the
26 outside denying residents access.

27 46. On October 3, 2005, DBI issued a NOV for lack of permit to operate the building's
28 boiler.

1 47. On January 20, 2006, DBI issued a NOV to recharge all fire extinguishers and to
2 replace a missing fire extinguisher on the second floor.

3 48. On February 22, 2006, DBI issued a NOV to repair or replace the building's boiler as
4 there was no heat in the rooms.

5 49. On March 3, 2006, DBI issued a NOV for lack of required number of bathrooms, as
6 three community bathrooms were locked in a manner that denied residents access.

7 50. On March 31, 2006, DBI issued a NOV for malfunctioning fire alarm and failure to
8 provide proper closure and latching of the front door to the building

9 51. On April 11, 2006, DBI issued a NOV for locking a community bathroom in a manner
10 that denied residents access.

11 52. On April 28, 2006, DBI issued a NOV for garbage and debris at the property.

12 53. On July 11, 2006, DBI issued a NOV for a broken sink.

13 54. On June 15, 2006, DBI issued a NOV for failure to repair and maintain fire escape drop
14 ladder, broken skylight, failure to restore fire sprinkler head to garbage chute, missing smoke
15 detectors, unsafe extension cords, clogged toilets, broken sinks and faucets, water leak, refuse
16 throughout building, cockroach infestation, an illegally constructed storage closet, broken window and
17 sash frame, and broken sash cords.

18 55. On August 22, 2006, DBI issued a NOV for cockroach infestation, a broken sash cord
19 and sash frame, leak from ceiling, and replacement of carpet smelling of urine.

20 56. On September 13, 2006, DBI issued a NOV for an unrepaired garbage chute fire
21 sprinkler head, broken smoke detector, and damaged walls.

22 57. On October 11, 2006, DBI, after a duly noticed hearing, the Director of the Department
23 of Building Inspection issued an Order of Abatement which declared the Property a public nuisance
24 and instructed Defendants abate any remaining nuisance at the Property.

25 58. On December 8, 2006, DBI issued a NOV for lack of heat to one room.

26 59. On February 2, 2007, DBI issued a NOV for lack of daily reports and room receipts as
27 required by Chapter 41 of the San Francisco Administrative Code and Section 1102(c) of the San
28 Francisco Housing Code.

1 60. On February 16, 2007, DBI issued a NOV for missing intermittent guardrails at the top
2 of the interior stairs, and lack of self closing devices and dead latch locks on the side exit door.

3 61. On March 2, 2007, DBI issued a NOV for bedbug infestation and a window in need of
4 glazing seal.

5 62. On May 3, 2007, DBI issued a NOV for broken window, sash frame, toilet seat and
6 tank cover in community toilet, dangling light socket, provide heat to two rooms, and repair doors.

7 63. On May 4, 2007, DBI issued a NOV for two broken windows.

8 64. On May 23, 2007, DBI issued a NOV for rodent infestation, plant overgrowth and
9 deteriorated concrete which created an egress obstruction.

10 65. On June 8, 2007, DBI issued a NOV for leaking sink drain, refuse accumulation in
11 garbage storage area, repair and paint damaged walls, and repair or replace floor covering.

12 66. On November 6, 2007, after a duly noticed hearing, the Director of the Department of
13 Building Inspection issued an Order of Abatement which declared the Property a public nuisance and
14 instructed Defendants abate any remaining nuisance at the property.

15 67. On September 4, 2008, DBI issued a NOV for lack of required fire sprinkler head at
16 bottom of garbage chute, accumulation of rubbish, broken garbage chute, broken toilet seat, and need
17 to replace weather proofing.

18 68. On December 8, 2008, DBI issued a NOV for garbage chute clogged with rubbish,
19 refuse accumulation on side stairway, garbage storage area and roof ledges, and broken front door
20 lock.

21 69. On May 7, 2009, DBI issued a NOV for broken window and broken sash frame, and
22 accumulation of rubbish on window ledge.

23 70. On June 30, 2009, after a duly noticed hearing, the Director of the Department of
24 Building Inspection issued an Order of Abatement which declared the Property a public nuisance and
25 instructed Defendants abate any remaining nuisance at the property.

26 71. On July 21, 2009, DBI issued a NOV for a broken window, inoperable hot water faucet,
27 and to replace a hollow core door with a solid core door.

1 72. On August 28, 2009, DBI issued a NOV to remove rubbish and trash from rear yard,
2 ledge above rear yard, loose and abandoned items on roof, including ducts, pipes, abandoned satellite
3 dishes, air-conditioning units, tarps, and cinder blocks.

4 **B. Department of Public Health**

5 73. Beginning in 2006, the San Francisco Department of Public Health ("DPH") has
6 inspected the Property and found corrections were necessary to bring the Property into compliance
7 with the San Francisco Health Code.

8 74. On June 12, 2006, DPH, after a room-to-room inspection, notified Bridge Motel
9 management of cockroach infestation in 12 rooms and common hallways, broken sinks in three rooms,
10 broken windows, and carpets in need of cleaning.

11 75. On July 27, 2006, DPH notified Bridge Motel management of the need to replace
12 carpet, paint one room, cockroach abatement, and overflowing garbage in the motel's parking lot
13 garbage dumpster.

14 76. On August 11, 2006, DPH notified Bridge Motel management of need for additional
15 garbage service due to overflowing garbage in parking lot dumpster.

16 77. On November 6, 2007, DPH notified Bridge Motel management of live and dead
17 cockroaches found in one room.

18 78. On December 4, 2007, DPH notified Bridge Motel management of garbage being
19 thrown from rooms at the Bridge into netting between the Bridge and the neighboring Walgreen's
20 structure.

21 79. On July 14, 2008, DPH notified Bridge Motel management of overflowing garbage in
22 the motel's parking lot dumpster.

23 80. On July 22, 2008, DPH performed a room-to-room inspection of the property and found
24 rooms with the following: lack of running water, leaking sink and drain, low hot water pressure,
25 bedbugs and mold in common shows.

26 81. On August 20, 2008, DPH notified Bridge Motel management of overflowing garbage
27 in the motel's parking lot garbage dumpster and garbage being reportedly thrown by Bridge tenants
28 into the backyard a neighboring property.

1 82. On September 18, 2008, DPH notified Bridge management that they must provide
2 additional pest control treatment for bedbugs in three rooms.

3 83. On October 20, 2008, DPH notified Bridge Motel management of excess garbage in the
4 parking lot and overflowing garbage in the motel's dumpster.

5 84. On April 14, 2009, DPH notified Bridge Motel management that they must replace
6 carpeting in one room based on foul odor.

7 85. On June 9, 2009, DPH notified Bridge Motel management that they must provide proof
8 of pest control treatment for bedbug issues in three rooms.

9 **C. San Francisco Fire Department**

10 86. Beginning in 2006, the San Francisco Fire Department ("SFFD") has inspected the
11 Property and found violations of the San Francisco Fire Code.

12 87. On June 21, 2006, SFFD issued a Notice of Violation because the Property had blocked
13 exit stairways, lack of proof of current annual fire alarm certification, hazardous accumulation of
14 combustible materials, trash accumulation, electrical extension cords used in lieu of permanent wiring,
15 and lack of working smoke detectors in sleeping areas.

16 88. On December 3, 2007, SFFD issued a Notice of Violation to repair the fire alarm,
17 provide proof of current fire alarm UL certification, repair wall/ceiling penetrations, and provide an
18 approved permit for the fire alarm.

19 89. On July 30, 2009, SFFD instructed Bridge Motel management to correct a double-sided
20 lock at rear of building, which was in violation of the San Francisco Fire Code.

21 **FIRST CAUSE OF ACTION FOR PUBLIC NUISANCE BROUGHT**
22 **BY PLAINTIFFS AGAINST ALL DEFENDANTS**

23 **COUNT ONE: GENERAL PUBLIC NUISANCE STATUTE**
24 **(Civil Code Sections 3479, 3480)**

25 90. Plaintiffs hereby incorporate by reference paragraphs 1 through 89 above, as though
26 fully set forth herein.

27 91. By permitting the above described and other injurious and illegal activities to exist at
28 the Motel, Defendants now are, and for a considerable period of time heretofore and at all times herein
mentioned have been, causing and maintaining a continuing public nuisance within the meaning of

1 Civil Code Sections 3479 and 3480. The condition giving rise to this public nuisance is Defendants'
2 use of the Property as a SRO in violation of state and local law, including those that ensure public
3 safety. The manner in which Defendants maintain the Property is injurious to the health and safety of
4 the public, is dangerous to human life and is offensive to the senses so as to interfere with the
5 comfortable enjoyment of life or property of an entire community or neighborhood.

6 92. At all times herein mentioned, Defendants have had notice and knowledge that the
7 Property constituted a public nuisance.

8 93. Plaintiffs have no adequate remedy at law in that damages are insufficient to protect the
9 public from the present danger and harm caused by the conditions described herein.

10 94. Unless said nuisance is abated, the surrounding community and neighborhood, and the
11 residents and citizens of the City and County of San Francisco, will suffer irreparable injury and
12 damage, in that said conditions will continue to be injurious to the health and safety of the public,
13 dangerous to human life and offensive to the senses so as to interfere with the comfortable enjoyment
14 of life or property of the citizens and residents of the City and County of San Francisco.

15 **COUNT TWO: PUBLIC NUISANCE PER SE**
16 **(San Francisco Housing, Fire and Health Codes)**

17 95. Plaintiffs hereby incorporate by reference paragraphs 1 through 94 above, as though
18 fully set forth herein.

19 96. Plaintiff City and County of San Francisco brings this cause of action pursuant to San
20 Francisco Housing Code Sections 204(c)(2), 401, 1001, San Francisco Fire Code Sections 103.4.5, and
21 San Francisco Health Code Sections 581.

22 97. Defendants have for a considerable period of time, and at all times herein mentioned,
23 been maintaining the Property in violation of the San Francisco Housing Code. Pursuant to Housing
24 Code Section 401, any condition that is dangerous to human life or is detrimental to health or is a fire
25 hazard, or any building that has insufficient ventilation or illumination or inadequate or unsanitary
26 sewage or plumbing facilities, or any substandard building, is a per se public nuisance.

27 98. Defendants have, and for a considerable period of time, and at all times herein
28 mentioned, been maintaining the Property in violation of the San Francisco Fire Code. Pursuant to

1 Fire Code Section 103.4.5, any condition that is dangerous to human life or is detrimental to health or
2 is a fire hazard, is a per se public nuisance.

3 99. Defendants have, and for a considerable period of time, and at all times herein
4 mentioned, been maintaining the Property in violation of the San Francisco Health Code. Pursuant to
5 Health Code Section 581, a violation of its provisions prohibiting, among other things, unsanitary
6 conditions, pest harborage, accumulation of trash, and accumulation of debris, is a per se public
7 nuisance.

8 100. At all times herein mentioned, Defendants had notice and knowledge that the Property
9 constituted a public nuisance and an unsafe building or structure because they were notified by
10 warnings, administrative notices and orders issued by DBI, SFFD, and DPH, but failed to take
11 reasonable steps to abate the nuisance.

12 101. Plaintiff has no adequate remedy at law in that damages are insufficient to protect the
13 public from the present danger and harm caused by the conditions described above.

14 102. Unless said nuisance is abated, the residents of the Property, the residents of adjacent
15 properties, and the residents and citizens of the City and County of San Francisco, will suffer
16 irreparable injury and damage, in that said conditions will continue to be injurious to the continuous
17 enjoyment of life and the free use of property of said residents of the City and County of San
18 Francisco and the People of the State of California.

19 103. By maintaining the Property in a manner violating the San Francisco Housing Code,
20 Defendants have violated, disobeyed, omitted, neglected, and refused to comply with the San
21 Francisco Housing Code and the notices and orders issued by DBI, and Defendants are thus subject to
22 civil penalties up to \$1,000 per day for each day that such violations existed and were permitted to
23 continue as set forth in Housing Code Section 204(c)(2).

24 **SECOND CAUSE OF ACTION FOR PUBLIC NUISANCE**
25 **BROUGHT BY PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA AGAINST ALL**
26 **DEFENDANTS BASED ON THE**
27 **STORAGE AND SALE OF NARCOTICS AT THE PROPERTY**
28 **(Health and Safety Code Sections 11570 -11587)**

104. Plaintiff the People of the State of California hereby incorporates by reference
Paragraphs 1- 103, as though fully set forth herein.

1 105. The Property is being, and for a considerable period of time prior to commencement of
2 this action has been, used for the purposes of unlawfully selling, serving, storing, possessing,
3 manufacturing, consuming or giving away controlled substances. Section 11570 of the California
4 Health and Safety Code deems such conduct a nuisance as a matter of law.

5 106. The Defendants, as owners, lessees, managers and lien holders of the Property, and
6 employees and agents of the same, are and for a considerable period of time prior to commencement
7 of this action have been, directly or indirectly maintaining or permitting the Property to be used for the
8 unlawful sale, service, storage, possession, manufacture, consumption or distribution of controlled
9 substances, resulting in a public nuisance.

10 107. Unless the Defendants are enjoined by an order of this court to close the Property for
11 one year pursuant to California Health and Safety Code Section 11581(b); and, to pay civil penalties of
12 \$25,000 for violation of Health and Safety Code Section 11570 pursuant to Health and Safety Code
13 Section 11581; or, if closure may create a public nuisance or may otherwise harm the community, to
14 pay damages in an amount equal to the fair market rental value of the Property for one year to the City
15 and County of San Francisco for the purpose of carrying out drug prevention and education programs
16 pursuant to California Health and Safety Code Section 11581(c)(1), the Defendants will continue to
17 directly and indirectly use, permit and maintain said Property as a public nuisance, and by such
18 conduct, continue to cause irreparable injury to the People of California and the residents of the City
19 and County of San Francisco.

20 108. Plaintiffs have no adequate remedy at law in that damages alone are insufficient to
21 protect the public from the present injury and harm caused by the conduct described above.

22 **THIRD CAUSE OF ACTION FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES**
23 **BROUGHT BY PLAINTIFF PEOPLE OF THE STATE OF**
24 **CALIFORNIA AGAINST ALL DEFENDANTS**
25 **(Business and Professions Code Sections 17200-17210)**

26 109. Plaintiff the People of the State of California hereby incorporates by reference
27 paragraphs 1 through 108 above, as though fully set forth herein.

28 110. Plaintiff brings this cause of action in the name of the People of the State of California
pursuant to Business and Professions Code Sections 17200-17210 in order to protect the public as

1 consumers and competitors from unlawful and unfair practices committed by Defendants in the
2 commercial use and operation of the Property as a public nuisance and in violation of the law within
3 the City and County of San Francisco, State of California.

4 111. Defendants transact business by operating a commercial business within the City and
5 County of San Francisco, State of California.

6 112. The violations of law described herein have been and are being carried out wholly or in
7 part within the City and County of San Francisco. The actions of Defendants are in violation of the
8 laws and public policies of the City and County of San Francisco and the State of California, and are
9 inimical to the rights and interest of the general public.

10 113. Defendants have and are engaging in the following unfair and unlawful business
11 practices prohibited by the Unfair Competition Law:

12 A. creating and maintaining a public nuisance within the meaning of Civil Code
13 Sections 3479 and 3480;

14 B. violating and creating and maintaining a public nuisance within the meaning of the
15 State Housing Law;

16 C. violating and creating and maintaining a public nuisance within the meaning of the
17 State Drug Abatement Act;

18 D. violating and creating and maintaining a public nuisance within the meaning of the
19 San Francisco Housing Code;

20 E. violating and creating and maintaining a public nuisance within the meaning of the
21 San Francisco Health Code;

22 F. violating and creating and maintaining a public nuisance within the meaning of the
23 San Francisco Fire Code.

24 114. As described in Paragraphs 20-89 above, Defendants, in the course of their business as
25 the owners, lessees, managers, and/or maintainers of commercial property that violates the San
26 Francisco Municipal Code and State nuisance and other laws, are now and for a considerable period of
27 time heretofore and at all times herein mentioned, have engaged and are engaging in a pattern and
28

1 practice of unlawful acts and courses of conduct constituting unfair business practices and unfair
2 competition as prohibited by the Unfair Competition Law.

3 115. As a direct and proximate result of the foregoing acts and practices, Defendants have
4 received or will receive income, profits, and other benefits, which they would not have received if they
5 had not engaged in the violations of the Unfair Competition Law described in this Complaint.

6 116. As a direct and proximate result of the foregoing acts and practices, Defendants have
7 obtained a competitive unfair advantage over similar businesses that have not engaged in such
8 practices.

9 117. Plaintiff has no adequate remedy at law in that damages are insufficient to protect the
10 public from the present danger and harm caused by the conditions described in this Complaint.

11 118. Unless injunctive relief is granted to enjoin the unfair and unlawful business practices
12 of Defendants, Plaintiff will suffer irreparable injury and damage.

13 119. By engaging in unfair and unlawful business practices described herein, Defendants are
14 subject to civil penalties in the amount of \$2,500 per violation, pursuant to Business and Professions
15 Code Section 17206.

16 WHEREFORE, PLAINTIFFS PRAY:

17 1. that the Property and structures located at 2524-2532V Lombard Street, together with
18 the fixtures and moveable property therein and thereon, be declared a public nuisance in violation of
19 Civil Code Sections 3479 and 3480, Health and Safety Code Section 11570, and the San Francisco
20 Housing, Health and Fire Codes;

21 2. the public nuisance at the Property be abated;

22 3. that all Defendants, and each of them, their agents, officers, managers, representatives,
23 employees, and anyone acting on their behalf, and their heirs and assignees be enjoined from
24 operating, conducting, using, occupying, or in any way permitting the use of the property and
25 structures at 2524-2532V Lombard Street, as a public nuisance pursuant to Civil Code Sections 3479,
26 3480, 3491, and 3494, Code of Civil Procedure Section 731, and Business and Professions Code
27 Sections 17200-17210 and Health and Safety Code Sections 11570-11587;

1 4. that Defendants be declared to have engaged in unfair and unlawful business acts and
2 practices in violation of Business and Professions Code Sections 17200-17210;

3 5. that, pursuant to Business and Professions Code Sections 17203-17204, Defendants,
4 their agents, officers, managers, representatives, employees, and anyone acting on their behalf, and
5 their heirs, successors, and assignees be enjoined from operating, conducting, using, occupying, or in
6 any way permitting the use of the Property in violation of the Civil Code Sections 3479 and 3480,
7 Health and Safety Code Sections 11570-11587, or otherwise engaging in the unfair and unlawful
8 business practices described in this Complaint;

9 6. Defendants, and each of them, inclusive, be enjoined from spending, transferring,
10 encumbering, or removing from California any money received from the Property or in payment for
11 the unfair and unlawful acts alleged in the Complaint;

12 7. pursuant to Health and Safety Code Section 11581, Defendants be ordered to pay civil
13 penalties of \$25,000 for violation of Health and Safety Code Section 11570;

14 8. pursuant to California Health and Safety Code Section 11581(c)(1) Defendants be
15 ordered to pay damages in an amount equal to the fair market rental value of the Property for one year
16 to the City and County of San Francisco for the purpose of carrying out drug prevention and
17 education;

18 9. pursuant to Business and Professions Code Section 17206, Defendants be ordered to
19 pay a civil penalty of \$2,500 for each act of unfair and unlawful competition in violation of Business
20 and Professions Code Section 17200;

21 10. pursuant to Business and Professions Code Section 17206.1, Defendants be ordered to
22 pay an additional civil penalty of \$2,500 for each act of unfair and unlawful business practice that
23 affected one or more elderly or disabled persons;

24 11. pursuant to Business and Professions Code Section 17203, that the Court order
25 restitution of all money or property acquired by Defendants as a result of the unlawful business
26 practices to Motel patrons during all times relevant to the Complaint;

1 12. that Plaintiffs recover the costs of suit, including attorneys' fees, costs of investigation
2 and discovery from Defendants, their successors and assigns, as provided by Civil Code Section
3 3496(d) and the State Housing Law;

4 13. that Plaintiffs recover the costs of suit from Defendants, their successors and assigns, as
5 provided by Code of Civil Procedure Section 1032;

6 14. that Plaintiffs shall have a lien upon Defendants' real estate interest in the Premises in
7 the amount expended pursuant to statutory authority and to have judgment in this amount against
8 Defendants, their successors and assigns;

9 15. recordation of an Abstract of Judgment in this case constitute a prior lien over any lien
10 that may be held on the Property by any Defendants to this action; and

11 16. the Court grant such other and further relief as this Court should find just and proper,
12 including attorneys' fees and costs as allowed by statute.

13 Dated: October 26, 2009

14 DENNIS J. HERRERA
15 City Attorney
16 ALEX G. TSE
17 Chief Attorney
18 Neighborhood and Resident Safety Division
19 CURTIS CHRISTY-CIRILLO
20 Deputy City Attorney

21 By: 
22 CURTIS CHRISTY-CIRILLO

23 Attorneys for Plaintiffs
24 CITY AND COUNTY OF SAN FRANCISCO AND
25 PEOPLE OF THE STATE OF CALIFORNIA
26
27
28

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Exhibit Description

A Property Description for 2524-2532V Lombard Street, San Francisco, California

EXHIBIT A

EXHIBIT A

Property Address:
2524-2532V Lombard Street

All that real property in the City and County of San Francisco, State of California, described as follows:

PARCEL A:

COMMENCING at a point on the Northerly line of Lombard Street, distant thereon 101 feet, 3 inches Westerly from the Westerly line of Divisadero Street, running thence Westerly along said line of Lombard Street 75 feet; thence at a right angle Northerly 137 feet, 6 inches; thence at a right angle Easterly 75 feet; thence at a right angle Southerly 137 feet, 6 inches to the point of commencement.

BEING part of Western Addition Block No. 488.
Assessor's Parcel No. Lot 3, Block 935

PARCEL B:

COMMENCING at a point on the Northerly line of Lombard Street, distant thereon 176 feet and 3 inches Westerly from the Westerly line of Divisadero Street; running thence Westerly along said line of Lombard Street 50 feet; thence at a right angle Northerly 137 feet and 6 inches; thence at a right angle Easterly 50 feet; and thence at a right angle Southerly 137 feet and 6 inches to the point of commencement.

BEING part of Western Addition Block No. 488.
Assessor's Parcel No. Lot 4, Block 935