



City Attorney Dennis Herrera News Release

For Immediate Release:
July 28, 2015
Contact: Matt Dorsey
(415) 554-4662

New violations escalate Mel Murphy case

Yet another illegal conversion of a residential development by city commissioner demonstrates ‘a pattern that is well-devised, carefully-executed and, above all, willful’

SAN FRANCISCO (July 28, 2015)—City Attorney Dennis Herrera has amended his civil suit against city commissioner Mel Murphy to include another residential property that the veteran developer converted in violation of state and local laws, and then deliberately concealed for years from his annual disclosures to the San Francisco Ethics Commission.

The new allegations involving Murphy’s property at 1025 Hampshire Street mirror a pattern of lawlessness and deception that Herrera’s investigation uncovered at another Mission District project Murphy developed and illegally converted on Alabama Street. In willful defiance of Planning Code restrictions that limit residential developments in Hampshire Street’s zoning district to one- and two-family homes, Murphy deceived multiple city agencies by filing applications, plans and other documents to create the fiction of a lawful two-unit development—while clearly intending to alter the project to ultimately include three dwellings. As with Murphy’s similarly illegal conversion of his Alabama Street property, none of the building, plumbing or electrical work necessary to create an additional, unlawful unit on Hampshire Street was done with requisite approvals or inspections. Murphy continued to perpetrate both deceptions for years as a city official, omitting the Alabama Street and Hampshire Street properties from his statements of economic interests, which he was required to file annually as a building inspection commissioner between 2006 and 2012, and as a port commissioner since 2013.

Murphy finally disclosed his real property interests and rental income from the Alabama Street and Hampshire Street properties in amended statements for 2012, 2013, and 2014, which he filed on June 3, 2015—two months *after* Herrera sued Murphy for far-reaching unlawful conduct.

“I’ll say this for Mel Murphy: he’s consistent,” Herrera said. “Murphy’s illegal conversion schemes demonstrate a pattern that is well-devised, carefully-executed and, above all, willful. He flouts laws for ill-gotten profits; he deceives city agencies at every possible turn; and he goes the extra mile to conceal his wrongdoing even years later as a city official. As a member and president of the

[MORE]

Building Inspection Commission for six years, Mel Murphy was charged with enforcing laws he himself defied, repeatedly and remorselessly. In fact, his role on that commission often required adjudicating disputes and meting out punishments to others for their own violations. As a city official, Commissioner Murphy's conduct is a betrayal of public trust by that I'm sure many San Franciscans find discouraging. But it also underscores the importance of our case to pursue penalties that are tough and appropriate to the damage done. Our case isn't solely about punishing wrongdoing, or deterring similar would-be scofflaws. It's also about restoring confidence in the integrity of our public institutions that has sadly been diminished by Commissioner Murphy's lawlessness and deception."

Herrera filed his original civil action against Murphy in San Francisco Superior Court on April 1, 2015, acknowledging in an accompanying news release that the City Attorney's Office's investigation remains ongoing. The investigation initially focused on Murphy's unpermitted work at a vacant building at 125 Crown Terrace, which partially collapsed on Dec. 16, 2013 in the midst of a major renovation and expansion—suspiciously soon after Murphy failed in his attempts to obtain a demolition permit. Once underway, however, Herrera's inquiry identified evidence of additional violations involving Murphy's other development projects. The investigation, led by veteran prosecutor and City Attorney Public Integrity Chief David Pfeifer, remains underway.

The amended civil complaint filed in San Francisco Superior Court this morning details new allegations involving Murphy's Hampshire Street property, and also expands on Murphy's fraudulent concealment and efforts to delay discovery of his past wrongdoing, which are both well-established grounds to "toll" or suspend statutes of limitations under California law. San Francisco Superior Court Judge Ronald E. Quidachay granted Herrera leave to amend in a pre-trial hearing on June 29, 2015, after Murphy's legal team moved to strike allegations involving Murphy's illegal conversion of his 1346 Alabama Street property as time-barred. Herrera countered that by concealing evidence and breaching his ethical duty to report his economic interests fully, Murphy lost the shield of a statute of limitations defense.

Other allegations that remain from Herrera's original complaint involve projects at 125 Crown Terrace and at 3418 26th Street. For Crown Terrace—the development that famously fell from its shoring and slid down a hill in Dec. 2013—Murphy is alleged to have violated a range of state and local law by maintaining the property as substandard, as a public nuisance, endangering public health and safety, and engaging in unlawful, unfair and fraudulent business practices. Murphy's 3418 26th Street project in Bernal Heights also violates state and local laws, according to Herrera's complaint. The 26th Street allegations center on Murphy's illegal installation of parking equipment, and defiance legal requirements for adequate parking for residents with disabilities. It includes contentions that Murphy performed work without requisite permits, failed to follow permits when he had them, shorted permit fees by tens of thousands of dollars, and also engaged unlawful, unfair and fraudulent business practices.

The case is: *City and County of San Francisco and People of the State of California v. Mel Murphy et al.*, San Francisco Superior Court, number 15-545031, filed April 1, 2015. Additional information on the San Francisco City Attorney's Office is available at: <http://www.sfcityattorney.org/>.

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 RONALD P. FLYNN, State Bar #184186
Chief Deputy City Attorney
3 DAVID PFEIFER, State Bar #127785
Chief of Public Integrity
4 THOMAS S. LAKRITZ, State Bar #161234
YVONNE R. MERÉ, State Bar #173594
5 MEGAN CESARE-EASTMAN, State Bar #253845
Deputy City Attorneys
6 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
7 Telephone: (415) 554-3963
Facsimile: (415) 437-4644
8 E-Mail: tom.lakritz@sfgov.org

9 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and
10 PEOPLE OF THE STATE OF CALIFORNIA

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 UNLIMITED JURISDICTION

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

17 Plaintiffs,

18 vs.

19 MEL MURPHY, Individually,
20 MEL MURPHY as Trustee of the Murphy
Family Revocable Trust, MEL MURPHY dba
21 Murphy's 3418 26th Street LLC,
NUANNOI MURPHY, Individually,
22 NUANNOI MURPHY as Trustee of the
Murphy Family Revocable Trust, NUANNOI
23 MURPHY dba Murphy's 3418 26th Street
LLC, 104 TARA LLC, a California Limited
24 Liability Corporation, MURPHY'S 1025
HAMPSHIRE ST NO. 1 LLC, a California
25 Limited Liability Corporation, MURPHY'S
1025 HAMPSHIRE ST NO. 2 LLC, a
26 California Limited Liability Corporation, and
DOES 1-50, inclusive,

27 Defendants.
28

Case No. CGC-15-545031

**FIRST AMENDED COMPLAINT FOR
INJUNCTIVE AND OTHER RELIEF**

Type of Complaint: Other real property (26)

1 The CITY AND COUNTY OF SAN FRANCISCO ("CITY"), a municipal corporation, and the
2 PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J. HERRERA, City Attorney
3 for the City and County of San Francisco, ("PEOPLE") (collectively "PLAINTIFFS") file their
4 complaint against MEL MURPHY, Individually, MEL MURPHY as Trustee of the Murphy Family
5 Revocable Trust, MEL MURPHY doing business as Murphy's 3418 26th Street LLC (collectively
6 "MEL MURPHY"), NUANNOI MURPHY, Individually, NUANNOI MURPHY, as Trustee of the
7 Murphy Family Revocable Trust, NUANNOI MURPHY, doing business as Murphy's
8 3418 26th Street LLC (collectively "NUANNOI MURPHY"), 104 TARA LLC, MURPHY'S
9 1025 HAMPSHIRE ST NO. 1 LLC, MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC, and DOE ONE
10 through DOE FIFTY (collectively "DEFENDANTS") are informed and believe and allege as set forth
11 below.

12 INTRODUCTION

13 1. This action arises out of DEFENDANTS' unlawful, unfair, and fraudulent business
14 practices, and repeated violations of municipal and state law relating to their development, operation,
15 and maintenance of residential properties in San Francisco.

16 2. Defendant MEL MURPHY has lived in San Francisco since the 1970s and is a licensed
17 California Real Estate Broker, and a real estate developer in San Francisco and Scottsdale, Arizona.
18 For over 14 years, MEL MURPHY was a licensed contractor in California. Since on or about
19 June 21, 1994, MEL MURPHY has been the Responsible Managing Officer ("RMO") for
20 Pattani Construction Company. MEL MURPHY served on the San Francisco Building Inspection
21 Commission ("BIC") for more than six years as a member, including serving as its President, and
22 currently serves as a member of the San Francisco Port Commission.

23 3. As a member and President of the BIC, MEL MURPHY was responsible for
24 interpreting, administrating, and enforcing San Francisco's Building, Housing, Electrical, Plumbing,
25 and Mechanical Codes. As a member of the BIC, MEL MURPHY also heard appeals of enforcement
26 matters, adjudicating cases involving violations of municipal law, work performed without requisite
27 permits, and work performed that exceeded the scope of existing permits. MEL MURPHY heard
28 these enforcement cases, applied the relevant law, and meted out punishment to property owners and

1 developers who were found to have violated San Francisco's Building, Housing, Electrical, Plumbing,
2 and Mechanical Codes.

3 4. NUANNOI MURPHY is the majority owner of Pattani Construction. She also owns
4 numerous buildings in San Francisco, individually and through a series of entities she and
5 MEL MURPHY own and control, including but not limited to Defendant 104 TARA LLC,
6 MURPHY'S 1025 HAMPSHIRE ST NO. 1 LLC, and MURPHY'S 1025 HAMPSHIRE ST
7 NO. 2 LLC. MEL MURPHY and NUANNOI MURPHY act as real estate developers for property
8 they own individually and through entities they control.

9 5. Despite MEL MURPHY's lengthy tenure in San Francisco, his more than nine years in
10 City government, his service on two Commissions, and his and NUANNOI MURPHY's experience as
11 developers, MEL MURPHY and NUANNOI MURPHY conduct their development and residential
12 rental businesses as if they are above the law.

13 6. As illustrated by the examples below, DEFENDANTS, individually, and by and
14 through their business and commercial entities, violate municipal and state law in the development,
15 construction, operation, and maintenance of property in San Francisco. This includes, but is not
16 limited to developing, building, and renting a four-unit residence without the required permits and
17 authorizations; failing to follow requirements of building permits, resulting in a development project
18 sliding down a hill, placing neighbors and the general public at risk of injury; and it includes building
19 yet another multi-unit, multi-story building without the required permits or inspections.
20 DEFENDANTS' pattern of behavior makes clear that they do not act as if the laws apply to them – the
21 same laws San Francisco trusted MEL MURPHY to enforce as a member of the BIC.

22 7. PLAINTIFFS bring this action against Defendants MEL MURPHY,
23 NUANNOI MURPHY, 104 TARA LLC, MURPHY'S 1025 HAMPSHIRE ST NO. 1 LLC,
24 MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC, and DOE ONE through DOE FIFTY, inclusive, for:
25 (a) violations of the State Housing Law, (b) creation of a public nuisance, and (c) engaging in
26 unlawful, unfair, and/or fraudulent business practices in violation of California Business and
27 Professions Code sections 17200 et seq.

PARTIES

1
2 8. Plaintiff CITY is a municipal corporation organized and existing under and by virtue of
3 the laws of the State of California, and is a city and county.

4 9. The CITY brings this action pursuant to California Health and Safety Code sections
5 17920 through 17992 (also known as the “State Housing Law”), Civil Code sections 3479, 3480,
6 3491, 3494; and Code of Civil Procedure section 731.

7 10. Plaintiff PEOPLE, brings this action pursuant to Civil Code sections 3479, 3480, 3491,
8 3494, Code of Civil Procedure section 731, and Business and Professions Code section 17200 et seq.
9 (also known as the “Unfair Competition Law”).

10 11. MEL MURPHY is a resident of San Francisco and a Trustee of the Murphy Family
11 Revocable Trust, which currently owns the real property located at 125 Crown Terrace and
12 1346 Alabama Street in San Francisco California. MEL MURPHY, as an individual, has also had an
13 ownership interest during other relevant times in the real property located at 125 Crown Terrace,
14 1346 Alabama Street, 3418 26th Street, and 1025 Hampshire Street, in San Francisco, California.
15 MEL MURPHY also did, or does, business as Murphy’s 3418 26th Street LLC.

16 12. Defendant NUANNOI MURPHY is a Trustee of the Murphy Family Revocable Trust
17 which currently owns the real property located at 125 Crown Terrace and 1346 Alabama Street, in
18 San Francisco California. NUANNOI MURPHY, as an individual, has also had an ownership interest
19 during other relevant times in the real property located at 125 Crown Terrace, 1346 Alabama Street,
20 3418 26th Street, and 1025 Hampshire Street, in San Francisco, California. NUANNOI MURPHY
21 also did, or does, business as Murphy’s 3418 26th Street LLC.

22 13. Defendant 104 TARA LLC is a California Limited Liability Corporation.
23 104 TARA LLC is the current owner of real property located at 3418 26th Street in San Francisco,
24 California. MEL MURPHY and NUANNOI MURPHY are both members of 104 TARA LLC.

25 14. Defendants MURPHY’S 1025 HAMPSHIRE ST NO. 1 LLC and MURPHY’S
26 1025 HAMPSHIRE ST NO. 2 LLC are California Limited Liability Corporations and are the current
27 owners of portions of 1025 Hampshire Street in San Francisco. MEL MURPHY and
28

1 NUANNOI MURPHY are both members of MURPHY’S 1025 HAMPSHIRE ST NO. 1 LLC and
2 MURPHY’S 1025 HAMPSHIRE ST NO. 2 LLC.

3 15. Defendants MEL MURPHY and NUANNOI MURPHY are named in their individual
4 capacity and in their representative capacities for the Murphy Family Revocable Trust and
5 104 TARA LLC.

6 16. Defendants DOE ONE through DOE FIFTY are sued herein under fictitious names.
7 PLAINTIFFS do not at this time know the true names or capacities of said defendants. PLAINTIFFS
8 will seek leave of court to amend this complaint to allege their true names and capacities when that
9 information is ascertained. Each fictitiously named Defendant is responsible in some manner of the
10 violations of law herein alleged.

11 **JURISDICTION AND VENUE**

12 17. The Superior Court of California, County of San Francisco, has jurisdiction over this
13 action. Defendants MEL MURPHY, NUANNOI MURPHY, 104 TARA LLC, MURPHY’S
14 1025 HAMPSHIRE ST NO. 1 LLC, and MURPHY’S 1025 HAMPSHIRE ST NO. 2 LLC each
15 conduct, unlawful, unfair, fraudulent, and/or deceptive business practices in San Francisco, California.

16 18. Moreover, the specific properties that are the subject of this litigation –
17 (1) 125 Crown Terrace, San Francisco, California, (2) 1346 Alabama Street, San Francisco, California,
18 (3) 3418 26th Street, San Francisco, California, and (4) 1025 Hampshire Street, San Francisco,
19 California (collectively “PROPERTIES”) – are within the physical boundaries of the City and County
20 of San Francisco.

21 19. Venue is proper in the Superior Court of California, County of San Francisco, because
22 Defendants MEL MURPHY, NUANNOI MURPHY, 104 TARA LLC, MURPHY’S
23 1025 HAMPSHIRE ST NO. 1 LLC, and MURPHY’S 1025 HAMPSHIRE ST NO. 2 LLC each
24 transact business in the City and County of San Francisco.

25 //

26 //

27 //

28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FACTUAL ALLEGATIONS

**The Building Code Is Designed To Ensure Public Health, Safety, and General Welfare;
The Planning Code Is Designed To Guide, Control, and Regulate Growth and Development**

20. The construction and development of real estate in San Francisco is governed by both state and municipal law. The San Francisco Building Code (“SF Building Code”) operates as an amendment to the California Building Code and the California Residential Code. The purpose of the SF Building Code is to:

establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation and energy conservation, and safety to life and property from fire and other hazards attributed to the built environment; to regulate and control the demolition of all buildings and structures, and the quarrying, grading, excavation, and filling of land; and to provide safety to fire fighters and emergency responders during emergency operations. The further purpose of this code is to ensure that barrier-free design is incorporated in all buildings, facilities, site work and other developments to which this code applies and to ensure that they are accessible to and usable by persons with disabilities.

SF Building Code § 101A.2.

21. The SF Building Code does all of the following: defines what constitutes an unsafe building; requires permits for certain repairs and projects, and establishes procedures and fees for obtaining those permits that are commensurate with the cost of the proposed project; confers upon the Department of Building Inspection (“DBI”) powers to carefully examine permits for construction work on potentially hazardous or seismically unsafe properties; codifies an administrative complaint and enforcement process which imposes fees for inspections and permits as well as fines and civil penalties for violations; and declares that violations of the SF Building Code render buildings “unsafe.”

22. The SF Building Code is administered by DBI, which has professional inspection and engineering staff who inspect properties, approve or disapprove permits, and respond to complaints.

23. In addition to staff, DBI is also governed by a commission called the San Francisco Building Inspection Commission (“BIC”).

//

//

1 24. As set forth in the San Francisco Charter:

2 The Building Inspection Commission shall organize, reorganize, and manage the
3 Department of Building Inspection which shall have responsibility for the enforcement,
4 administration, and interpretation of the City's Housing, Building, Mechanical,
5 Electrical, and Plumbing Codes, except where this Charter specifically grants that
power to another department. The Central Permit Bureau, formerly within the Bureau
of Building Inspection, shall also be managed by the commission.

6 San Francisco Charter, App. D, § D3.750-4; see also SF Building Code § 105A.2.

7 25. The BIC also functions as the Abatement Appeals Board and in that capacity bears the
8 responsibility to:

9 hear and decide appeals from Orders of Abatement after public hearing by the
10 Building Official of Building Inspection, and to hear appeals The
11 Abatement Appeals Board may uphold, modify or reverse such orders, provided
that the public health, safety and public welfare are secured most nearly in
accordance with the intent and purpose of this code and the San Francisco
Housing Code

12 SF Building Code § 105A.2; see also San Francisco Charter, App. D, § D3.750-4.

13 26. The use and development of property in San Francisco is also governed by the
14 San Francisco Planning Code (“SF Planning Code”).

15 27. The SF Planning Code divides San Francisco into zoning districts, which are subject to
16 specific use regulations and requirements to maintain consistency with the characteristics of the
17 districts. SF Planning Code § 102.5.

18 28. The SF Planning Code zoning provisions are designed to:

19 (a) guide, control and regulate future growth and development in San Francisco;
20 (b) protect the character and stability of residential, commercial and industrial
neighborhoods, and promote orderly and beneficial development of such areas;
21 (c) provide adequate light, air, privacy and convenience of access to property,
and secure safety from fire and other dangers; (d) prevent overcrowding and
22 undue congestion of population; and (e) regulate the location and use of
buildings and land adjacent to streets and thoroughfares.

23 SF Planning Code § 101.

24 29. The San Francisco Planning Department (“Planning”) and Planning Commission
25 enforce the SF Planning Code, and each is involved in the approval or disapproval of permits for
26 construction and development in San Francisco.

27 //

28 //

1 **Mel and Nuannoi Murphy's Background and Business Activities**

2 30. MEL MURPHY is an experienced real estate developer, a longtime San Franciscan,
3 and a sitting City Commissioner.

4 31. MEL MURPHY has lived and done business in San Francisco since the 1970s.

5 32. MEL MURPHY's business enterprises include a construction company,
6 Pattani Construction, which he co-owns with his wife, NUANNOI MURPHY, and which performed
7 work on at least one of the PROPERTIES.

8 33. MEL MURPHY's business enterprises also include a real estate investment and
9 management company, Murphy & O'Brien Real Estate Investments, where he currently serves as
10 Director and Chief Executive Officer.

11 34. MEL MURPHY was a member of the BIC from January 6, 2006, until
12 February 15, 2012, serving as the Commission's President from March 18, 2009, until
13 March 26, 2011. MEL MURPHY was originally appointed to the BIC by Mayor Gavin Newsom, who
14 reappointed him on February 5, 2008. On December 19, 2011, Mayor Edwin Lee reappointed
15 MEL MURPHY to the BIC.

16 35. From January 6, 2006 to February 15, 2012, while serving on the BIC, MEL MURPHY
17 acted as a member of the Abatement Appeals Board, serving in an adjudicatory capacity on appeals of
18 Notices of Violation and Orders of Abatement issued for work completed without a building permit or
19 work beyond the scope of an approved building permit.

20 36. On February 12, 2013, Mayor Edwin Lee appointed MEL MURPHY to the
21 San Francisco Port Commission. The San Francisco Board of Supervisors approved
22 MEL MURPHY's appointment to the San Francisco Port Commission on March 17, 2013.
23 MEL MURPHY continues to serve on San Francisco Port Commission today.

24 37. MEL MURPHY and NUANNOI MURPHY are also members of 104 TARA LLC,
25 which is a business entity that owns and/or operates 3418 26th Street in San Francisco, California.

26 38. MEL MURPHY and NUANNOI MURPHY have also done business as
27 Murphy's 3418 26th Street LLC.

28 //

1 39. PLAINTIFFS highlight four properties below, 1346 Alabama Street,
2 125 Crown Terrace, 3418 26th Street, and 1025 Hampshire Street, in San Francisco, California, which
3 are illustrative of DEFENDANTS' unlawful, unfair, and fraudulent business activities.

4 **1346 Alabama Street, San Francisco, California**

5 40. On or around July 27, 1999, MEL MURPHY and NUANNOI MURPHY purchased the
6 real property located at 1346 Alabama Street, San Francisco, California, Block 4271, Lot 011
7 ("1346 Alabama Street"), for \$215,000.

8 41. 1346 Alabama Street is located in a Residential House ("RH")-2 Zoning District.
9 RH Districts are "intended to recognize, protect, conserve and enhance areas characterized by
10 dwellings in the form of houses" in San Francisco. SF Planning Code § 206.1. An RH-2 District is
11 "devoted to one-family and two-family houses" *Ibid.*

12 42. On or around March 13, 2001, MEL MURPHY and NUANNOI MURPHY obtained a
13 building permit (Permit Application No. 200003295776) to construct a two-family residential building
14 at 1346 Alabama Street. The plans MEL MURPHY and NUANNOI MURPHY submitted to DBI
15 showed a four-story, two-unit building with four total bathrooms and two total kitchens.

16 43. On or around August 20, 2001, MEL MURPHY and NUANNOI MURPHY and/or
17 their agents submitted an application and proposed parcel map to the Planning to construct a new two-
18 unit condominium building at 1346 Alabama Street. The plans showed a four-story, two-unit building
19 with four total bathrooms and only two kitchens.

20 44. On or around September 10, 2001, Planning approved MEL MURPHY and
21 NUANNOI MURPHY's proposed two-unit condo project and accompanying proposed parcel map.

22 45. DBI issued a Certificate of Final Completion and Occupancy for 1346 Alabama Street
23 on December 17, 2001. The Certificate of Final Completion stated that 1346 Alabama Street
24 contained a "4 story 2 unit residential building per approved plans."

25 46. On or around January 8, 2002, MEL MURPHY and NUANNOI MURPHY executed a
26 "Declaration of Conditions, Covenants and Restrictions of 1346 Alabama Street, a Condominium
27 Project" ("CC&Rs"). In the CC&Rs, MEL MURPHY and NUANNOI MURPHY declare that
28 1346 Alabama Street "is being improved with a two (2) unit residential building" condominium

1 project, and providing separate title to each unit at the property. MEL MURPHY and
2 NUANNOI MURPHY recorded the CC&Rs with the San Francisco Assessor-Recorder's Office on or
3 around February 15, 2002.

4 47. On or about February 8, 2002, the real property located at Block 4271, Lot 011 was
5 subdivided into two lots: Block 4271, Lot 045 (Unit A), and Block 4271, Lot 046 (Unit B).

6 48. MEL MURPHY and NUANNOI MURPHY retained ownership of both Units A and B
7 at 1346 Alabama Street. At some point prior to 2005, MEL MURPHY and NUANNOI MURPHY
8 converted the two-dwelling-unit property to include four dwelling units, each with a separate kitchen.

9 49. On or about December 26, 2013, as a result of events described below in
10 Paragraphs 93-101, the PEOPLE, acting through the San Francisco City Attorney's Office, learned
11 that MEL MURPHY and NUANNOI MURPHY owned 1346 Alabama Street.

12 50. The PEOPLE did not discover that there were more than two units at
13 1346 Alabama Street until February 2014, at the earliest.

14 51. Three-family and four-family dwellings are prohibited in a RH-2 Zoning District.
15 SF Planning Code § 209.1(e). Dwelling at a density ratio of more than one dwelling unit for each
16 1,500 square feet is prohibited in a RH-2 Zoning District. SF Planning Code § 209.1(g)-(i). Thus,
17 under the SF Planning Code, MEL MURPHY and NUANNOI MURPHY's use of 1346 Alabama as
18 four separate residences is prohibited and illegal.

19 52. MEL MURPHY and NUANNOI MURPHY also did not obtain the requisite building,
20 plumbing, and/or electrical permits or inspections from DBI when they performed construction work
21 at 1346 Alabama Street to convert the property from two to four dwelling units. SF Building
22 Code § 106A.

23 53. MEL MURPHY and NUANNOI MURPHY have rented each of the four dwelling units
24 at 1346 Alabama Street and received rental income since at least 2005.

25 54. On or around February 11, 2014, MEL MURPHY and NUANNOI MURPHY
26 transferred their ownership interest in 1346 Alabama Street to the Murphy Family Revocable Trust.

27 //

28 //

1 55. As a member of the BIC and the Port Commission, MEL MURPHY was required to
2 file a Statement of Economic Interests upon assuming each office, every year, and upon leaving office.
3 San Francisco Campaign & Gov't Conduct Code §§ 3.1-102, 3.1-103, 3.1-104.

4 56. Members of the BIC and Port Commission were designated "Disclosure Category 1."
5 San Francisco Campaign & Gov't Conduct Code §§ 3.1-155, 3.1-345. "Disclosure Category 1"
6 imposed the following requirements:

7 Persons in this category shall disclose income (including gifts) from any source,
8 interests in real property, investments, and all business positions in which the
9 designated employee is a director, officer, partner, trustee, employee, or holds
10 any position of management.

11 San Francisco Campaign & Gov't Conduct Code § 3.1-107.

12 57. MEL MURPHY failed to disclose on his Statements of Economic Interests either his
13 real property interest in 1346 Alabama Street or the rental income he received from
14 1346 Alabama Street from February 7, 2006 to April 1, 2015. During the same time period,
15 MEL MURPHY did disclose more than twenty other properties from which he and
16 NUANNOI MURPHY received rental income. MEL MURPHY purposely omitted mention of his
17 ownership interest and rental income related to 1346 Alabama Street on his Statements of Economic
18 Interests which he had a legal obligation to file. In addition, MEL MURPHY actively concealed the
19 unpermitted and unlawful conversion of 1346 Alabama from PLAINTIFFS.

20 58. On June 3, 2015, MEL MURPHY filed amended Statements of Economic Interests for
21 2012, 2013, and 2014, disclosing a real property interest and rental income in 1346 Alabama Street.

22 59. It was only after Plaintiffs initiated this litigation that MEL MURPHY undertook to
23 amend his Statements of Economic Interests, and yet, to date, neither MEL MURPHY,
24 NUANNOI MURPHY, nor a representative of the Murphy Family Revocable Trust have attempted to
25 contact representatives of the CITY to legalize the construction and/or conversion of
26 1346 Alabama Street, and the unauthorized and unlawful construction and conversion remain and are
27 ongoing.

28 //

//

//

1025 Hampshire Street, San Francisco, California

1
2 60. On or around May 13, 1999, MEL MURPHY AND NUANNOI MURPHY purchased
3 the real property located at 1025 Hampshire Street, San Francisco, California, Block 4153, Lot 011
4 (“1025 Hampshire Street”) for \$200,000.00.

5 61. 1025 Hampshire Street is located in an RH-2 Zoning District.

6 62. On or around June 19, 2000, MEL MURPHY and NUANNOI MURPHY obtained a
7 building permit (Permit Application No. 9914202S) to erect a two-family residential building at
8 1025 Hampshire Street. The plans MEL MURPHY and NUANNOI MURPHY submitted to DBI
9 showed a three-story building with six total bedrooms and two total kitchens.

10 63. On or around November 2, 2000, MEL MURPHY and NUANNOI MURPHY and/or
11 their agents submitted an application and proposed parcel map to the Planning to construct a new two-
12 unit condominium building at 1025 Hampshire Street. The plans showed a three-story, two-unit
13 building with six total bedrooms and only two kitchens.

14 64. On or around January 26, 2001, Planning approved MEL MURPHY and
15 NUANNOI MURPHY’s proposed two-unit condo project and accompanying proposed parcel map.

16 65. DBI issued a Certificate of Final Completion and Occupancy for
17 1025 Hampshire Street on December 19, 2000. The Certificate of Final Completion stated that
18 1025 Hampshire Street contained a “three story two unit dwelling.”

19 66. On or around June 12, 2001, MEL MURPHY and NUANNOI MURPHY executed a
20 “Declaration of Conditions, Covenants and Restrictions of 1025 Hampshire Street, a Condominium
21 Project” (“CC&Rs”). In the CC&Rs, MEL MURPHY and NUANNOI MURPHY declare that
22 1025 Hampshire Street “is being improved with a two (2) unit residential building” condominium
23 project, and providing separate title to each unit at the property. MEL MURPHY and
24 NUANNOI MURPHY recorded the CC&Rs with the San Francisco Assessor-Recorder’s Office on or
25 around June 15, 2001.

26 67. On or about May 25, 2001, the real property located at Block 4153, Lot 034 was
27 subdivided into two lots: Block 4153, Lot 042 (Unit A), and Block 4153, Lot 043 (Unit B).

28 //

1 68. MEL MURPHY and NUANNOI MURPHY retained ownership of both Units A and B
2 at 1025 Hampshire Street.

3 69. At some point prior, MEL MURPHY and NUANNOI MURPHY converted the two-
4 dwelling-unit property to include three dwelling units, each with a separate kitchen.

5 70. Three-family and four-family dwellings are prohibited in a RH-2 Zoning District.
6 SF Planning Code § 209.1(e). Dwelling at a density ratio of more than one dwelling unit for each
7 1,500 square feet is prohibited in a RH-2 Zoning District. SF Planning Code § 209.1(g)-(i). Thus,
8 under the SF Planning Code, MEL MURPHY and NUANNOI MURPHY's use of
9 1025 Hampshire Street as three separate residences is prohibited and illegal.

10 71. MEL MURPHY and NUANNOI MURPHY also did not obtain the requisite building,
11 plumbing, and/or electrical permits or inspections from DBI when they performed construction work
12 at 1025 Hampshire Street to convert the property from two to three dwelling units. SF Building
13 Code § 106A.

14 72. On or around March 6, 2006, MEL MURPHY and NUANNOI MURPHY transferred
15 their ownership interest in 1025 Hampshire Street to MURPHY'S 1025 HAMPSHIRE ST NO. 1 LLC
16 and MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC.

17 73. MEL MURPHY failed to disclose on his Statements of Economic Interests either his
18 real property interest in 1025 Hampshire Street or the rental income he received from
19 1025 Hampshire Street from February 7, 2006 to April 1, 2015. During the same time period,
20 MEL MURPHY did disclose more than twenty other properties from which he and
21 NUANNOI MURPHY received rental income. MEL MURPHY purposely omitted mention of his
22 ownership interest and rental income related to 1025 Hampshire Street on his Statements of Economic
23 Interests which he had a legal obligation to file. In addition, MEL MURPHY actively concealed the
24 unpermitted and unlawful conversion of 1025 Hampshire Street from PLAINTIFFS.

25 74. On June 3, 2015, MEL MURPHY filed amended Statements of Economic Interests for
26 2012, 2013, and 2014, disclosing a real property interest and rental income in 1025 Hampshire Street.

27 75. It was only after Plaintiffs initiated this litigation that MEL MURPHY undertook to
28 amend his Statements of Economic Interests, and yet, to date, neither MEL MURPHY,

1 NUANNOI MURPHY, nor a representative of MURPHY'S 1025 HAMPSHIRE ST NO. 1 LLC or
2 MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC have attempted to contact representatives of the
3 CITY to legalize the construction and/or conversion of 1025 Hampshire Street, and the unauthorized
4 and unlawful construction and conversion remain and are ongoing.

5 76. Since June 3, 2015, when MEL MURPHY filed his amended Statements of Economic
6 Interests, Plaintiffs have discovered that MEL MURPHY, NUANNOI MURPHY, MURPHY'S
7 1025 HAMPSHIRE ST NO. 1 LLC, and MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC have rented
8 each of three dwelling units at 1025 Hampshire Street and received rental income.

9 **125 Crown Terrace, San Francisco, California**

10 77. On or around August 18, 2006, MEL MURPHY and NUANNOI MURPHY purchased
11 the real property located at 125 Crown Terrace, San Francisco, California, Block 2719B, Lot 003, for
12 \$850,000.

13 78. On or about August 6, 2007, a building permit application (Permit Application
14 No. 200708068905) was submitted to DBI on behalf of MEL MURPHY and NUANNOI MURPHY to
15 erect a four-story residential structure at 125 Crown Terrace. MEL MURPHY and
16 NUANNOI MURPHY and/or their agents estimated the cost of the proposed work to be \$530,000.

17 79. On or about September 20, 2007, Planning disapproved Permit Application
18 No. 200708068905, which was ultimately withdrawn on or about October 26, 2011.

19 80. On or about March 27, 2008, two building permit applications were submitted to DBI
20 on behalf of MEL MURPHY and NUANNOI MURPHY. Building Permit Application
21 No. 200803278191 was submitted to demolish the existing structure at 125 Crown Terrace. Building
22 Permit Application No. 200803278181 was submitted to erect a four-story residential structure at
23 125 Crown Terrace. MEL MURPHY and NUANNOI MURPHY and/or their agents estimated the
24 cost of the proposed work to be \$530,000. Both applications were ultimately withdrawn on
25 October 26, 2011.

26 81. On April 2, 2008, Planning notified an agent of MEL MURPHY and
27 NUANNOI MURPHY that the proposed construction at 125 Crown Terrace required a Mandatory
28

1 Discretionary Review public hearing before the Planning Commission because the proposed project
2 involved the demolition of a residential building.

3 82. On September 24, 2008, Planning notified an agent of MEL MURPHY and
4 NUANNOI MURPHY that the proposed construction at 125 Crown Terrace required a Mandatory
5 Discretionary Review public hearing before the Planning Commission because the appraisal submitted
6 by MEL MURPHY and NUANNOI MURPHY indicated a value of the existing housing was less than
7 \$1,540,000. Under the SF Planning Code, existing housing valued over \$1,540,000 are not subject to
8 Mandatory Discretionary Review, as set forth in SF Planning Code section 317(d).

9 83. In response to Planning's notifications, MEL MURPHY and NUANNOI MURPHY
10 submitted a new appraisal of the property to Planning in January 2009. The new appraisal valued the
11 property at just over \$1,600,000. Thus, if Planning had accepted MEL MURPHY and
12 NUANNOI MURPHY's \$1,600,000 appraisal, the proposed new construction would not be subject to
13 a Mandatory Discretionary Review public hearing, as set forth in SF Planning Code section 317(d).

14 84. On March 27, 2009, as a member of the BIC, MEL MURPHY filed his Statements of
15 Economic Interests for 2008. In this filing, MEL MURPHY listed the fair market value of
16 125 Crown Terrace as "\$100,001 to \$1,000,000."

17 85. In May 2009, the Real Estate Division of the City and County of San Francisco
18 reviewed the new appraisal submitted by MEL MURPHY and NUANNOI MURPHY, and concluded
19 that the market value of 125 Crown Terrace in January 2009, "was considerably less than \$1,600,000."
20 Based on this determination, Planning determined that the new construction MEL MURPHY and
21 NUANNOI MURPHY proposed for 125 Crown Terrace was subject to a Mandatory Discretionary
22 Review public hearing before the Planning Commission.

23 86. On March 14, 2011, a structural engineer, acting as an agent of MEL MURPHY and
24 NUANNOI MURPHY, submitted a letter to Planning which stated:

25 We have been asked to clarify the scope of the proposed project at 125 Crown
26 Terrace in San Francisco. The current structure is a 2-story wood-framed
27 building between Crown Terrace and Greystone Terrace. The design proposed
28 by Zone Design Development, dated June 2010, is a remodel and horizontal
addition with a new garage floor added at the top level. Per plan, a high level,
around 90%[] of existing foundations and walls will remain in place. All

1 existing floor area will remain or be strengthened. The new structure added will
2 be connected with seismic ties vertically and laterally. A seismic upgrade will
be applied to the new structure as a whole according to current design code.

3 87. On or about October 6, 2011, a third building permit application (Building Permit
4 Application No. 201110066315) was submitted to DBI on behalf of MEL MURPHY and
5 NUANNOI MURPHY to erect a four-story residential structure at 125 Crown Terrace. This time,
6 MEL MURPHY, NUANNOI MURPHY, and/or their agents valued the cost of construction to be
7 \$60,000. NUANNOI MURPHY paid the fee necessary to file Building Permit Application
8 No. 201110066315, based on the stated \$60,000 value. Subsequently, DBI rejected the \$60,000 value
9 and increased the value of the proposed construction a number of times.

10 88. On August 9, 2012, neighbors filed applications with Planning requesting that the
11 Planning Commission take discretionary review of MEL MURPHY and NUANNOI MURPHY's third
12 building permit application (Building Permit Application No. 201110066315). On October 25, 2012,
13 the Planning Commission conducted a public hearing at a regularly scheduled meeting and denied the
14 applications for discretionary review.

15 89. On November 28, 2012, DBI approved and issued Building Permit Application
16 No. 201110066315.

17 90. On December 13, 2012, three individuals appealed the issuance of Building Permit
18 Application No. 201110066315 to the San Francisco Board of Appeals. On December 21, 2012, the
19 Board of Appeals requested that DBI suspend Building Permit Application No. 201110066315. The
20 Board of Appeal ultimately rejected the appeal and Building Permit Application No. 201110066315
21 was reinstated on May 10, 2013.

22 91. After Building Permit Application No. 201110066315 was reinstated, staff at DBI
23 realized that 125 Crown Terrace was subject to the Slope Protection Act, which required certain
24 building projects to further evaluation and review for structural integrity and the effects of the
25 proposed construction on slope stability.

26 92. On May 24, 2013, DBI quickly convened the Structural Advisor Committee to review
27 the project proposed by MEL MURPHY and NUANNOI MURPHY at 125 Crown Terrace.
28

1 93. The Structural Advisory Committee held meetings on May 30, 2013, June 13, 2013,
2 and August 20, 2013. On August 20, 2013, the Structural Advisory Committee recommended the
3 review of the application proceed toward approval, provided MEL MURPHY and
4 NUANNOI MURPHY complied with the following conditions:

- 5 • Final design to be reviewed by a project design team. Final design shall include review
6 letters and acceptance letter from the design geologist and geotechnical engineer. The
7 items for review include geology/geotechnical, grading excavation, bolting, drainage,
8 and foundation. Also, the amount of necessary special inspection shall be stipulated.
- 9 • Geotechnical engineer shall review final design for vertical/lateral drilled pier
10 capacities.
- 11 • Geotechnical engineer shall review stability of the temporary platform constructed to
12 lift the existing structure. Geotechnical engineer shall also review drainage.
- 13 • The rock bolts shall have double corrosion protection.
- 14 • The final plans shall include cross sections in the north/south and east/west directions.
15 The sections should indicate existing improvements such as existing structural
16 foundations and retaining walls.
- 17 • The final plans shall include details of the surface/subsurface site drainage. The
18 drainage from behind the walls shall be separate from the subdrainage below. All
19 drainage shall be routed to city sewer.
- 20 • The final plans shall include special inspection for all subsurface elements such as
21 excavation.
- 22 • The temporary shoring system for the lifted building shall be designed to resist
23 environmental loads such as wind/seismic.
- 24 • Evaluate and analyze the stability of the temporary fill that will be placed to provide
25 access to the site.
- 26 • The sequence of the construction should be detailed on the drawings.

27 //

28 //

1 94. On August 30, 2013, agents of MEL MURPHY and NUANNOI MURPHY completed
2 structural engineering drawings and documentation showing how they would comply with the
3 conditions imposed by the Structural Advisory Committee.

4 95. On September 24, 2013, the Structural Advisory Committee reviewed the response
5 from MEL MURPHY and NUANNOI MURPHY and their agents to the conditions imposed on their
6 project. The Structural Advisory Committee recommended the plans be forwarded to DBI for review,
7 approval, and issuance of the permit.

8 96. On or about September 25, 2013, agents of MEL MURPHY and NUANNOI MURPHY
9 submitted the structural engineering drawings and documentation as required by the Structural
10 Advisory Committee to DBI, which approved the plans, including the Structural Advisory Committee
11 requirements, on October 8, 2013.

12 97. On December 16, 2013, at approximately 10:30 p.m., the existing single-family house
13 at 125 Crown Terrace fell off of its shoring and slid down the hill.

14 98. On or about December 17, 2013, DBI determined that the conditions at
15 125 Crown Terrace constituted a substantial hazard and issued a Notice of Violation (“NOV”). The
16 permit stated:

17 The shoring supporting the existing structure has failed causing downhill
18 displacement of the building. The structure is currently detached from the
19 shoring. A substantial hazard exists involving potential for additional slippage
and collapse onto the street below.

20 99. On or about December 18, 2013, DBI issued another NOV. This NOV reiterated that
21 the conditions at 125 Crown Terrace were a substantial hazard and required MEL MURPHY and
22 NUANNOI MURPHY, as owners of the property to:

23 When mitigation work approved under [permit application] 201312174363 is
24 complete under engineer of record STOP any further work including demolition
& preserve all elements of the structure & shoring onsite.

25 100. On December 31, 2013, DBI reviewed the approved plans and drawings and revised the
26 cost of construction to \$1,570,000, which is significantly more than the \$60,000 value
27 MEL MURPHY and NUANNOI MURPHY originally placed on their proposed project.
28

1 101. On or about January 17, 2014, DBI issued another Notice of Violation to
2 MEL MURPHY and NUANNOI MURPHY for work without a building permit associated with their
3 construction project at 125 Crown Terrace.

4 102. On February 10, 2014, MEL MURPHY and NUANNOI MURPHY executed a grant
5 deed transferring ownership of 125 Crown Terrace, San Francisco, CA, to MEL MURPHY and
6 NUANNOI MURPHY as Trustees of the Murphy Family Revocable Trust.

7 103. DBI investigated the structural collapse and determined that Pattani Construction,
8 which was managed by MEL MURPHY did the following:

- 9 • Failed to follow and implement the approved plans and the sequence of construction as
10 stipulated and outlined in the DBI permit.
- 11 • Failed to follow and implement the special inspection instructions, as mandated under
12 the approved DBI permit and the State of California Building Permit. As a result, the
13 required independent inspection of the shoring work was not conducted, leaving an
14 unsafe condition undiscovered until after the collapse occurred.
- 15 • The Department of Building Inspection determined that the combination of these two
16 factors contributed to a site situation where one of the steel support beams gave way.
17 Photos of the construction site hours before the failure suggest the work performed was
18 dramatically different than the approved plan. Had the contractor brought in inspectors
19 during the installation of the shoring structure, the work would have been halted prior
20 to the collapse.

21 104. On or about January 15, 2014, an agent of MEL MURPHY and NUANNOI MURPHY
22 and Pattani Construction testified before the BIC and stated “[t]his was a failure to implement the
23 approved plans. This accident could have been prevented.”

24 105. MEL MURPHY and NUANNOI MURPHY’s failure to follow the Structural Advisory
25 Committee requirements resulted in numerous violations of law, and placed the neighbors and the
26 general public at risk of injury.

3418 26th Street, San Francisco, California

1
2 106. On or around April 6, 2004, MEL MURPHY and NUANNOI MURPHY purchased
3 real property located at 3418 26th Street, San Francisco, California, Block 6529, Lot 034 for \$500,000.

4 107. On or around December 16, 2004, MEL MURPHY and NUANNOI MURPHY
5 transferred ownership of 3418 26th Street to “Murphy’s 3418 26th Street LLC, a California Limited
6 Liability Company.” PLAINTIFFS are informed and believe that Murphy’s 3418 26th Street LLC is a
7 real estate holding company owned by MEL MURPHY and NUANNOI MURPHY which was never
8 registered with the California Secretary of State’s Office.

9 108. On or around June 20, 2007, MEL MURPHY and NUANNOI MURPHY, individually
10 and/or doing business as Murphy’s 3418 26th Street LLC, applied for a building permit (Permit
11 Application No. 2007062045735) to construct a five-story, 11-unit building at 3418 26th Street. They
12 estimated the cost of the project to be \$500,000.

13 109. On or around June 4, 2008, MEL MURPHY and NUANNOI MURPHY, individually
14 and/or doing business as Murphy’s 3418 26th Street LLC, submitted and Environmental Review
15 Exemption Application to Planning for the proposed construction project at 3418 26th Street. In that
16 application, MEL MURPHY, NUANNOI MURPHY, and/or 104 TARA LLC disclosed the cost of the
17 project to be \$1,365,000.

18 110. DBI approved Permit Application No. 200706204573 on March 20, 2012, but rejected
19 MEL MURPHY and NUANNOI MURPHY’s estimated cost of construction, and changed the
20 estimated cost of the project from \$500,000 to \$1,050,000.

21 111. On April 18, 2012, MEL MURPHY and NUANNOI MURPHY or their agents
22 submitted addenda to Permit Application No. 200706204573 numbered S1.0, S1.2A, S2, S3, and SH1,
23 which outlined the general structural notes, special inspection requirements, the foundation design
24 plan, and the shoring plan for the project.

25 112. On or around October 17, 2012, MEL MURPHY and NUANNOI MURPHY,
26 individually and/or doing business as Murphy’s 3418 26th Street LLC, transferred ownership of
27 3418 26th Street, to 104 TARA LLC. PLAINTIFFS are informed and believe that 104 TARA LLC is
28

1 a real estate holding company owned by MEL MURPHY and NUANNOI MURPHY and registered
2 with the California Secretary of State as a limited liability company.

3 113. On or around October 26, 2012, MEL MURPHY, NUANNOI MURPHY, and/or
4 104 TARA LLC, individually or through their agents, obtained Permit Application No. 201210242727
5 to perform “excavation and shoring for future construction” as an “owner-builder.”

6 114. Between November 20, 2013 and December 13, 2013, without obtaining the requisite
7 permit addenda or inspections, DEFENDANTS began construction work at 3418 26th Street. Prior to
8 January 3, 2013, DEFENDANTS completed the foundation of the building, and structural work,
9 including concrete pouring and placement and installation of rebar, to construct the walls up to at least
10 the second floor of the proposed structure. MEL MURPHY has admitted that this work was done
11 without the required building permits or necessary inspections from DBI staff.

12 115. On January 3, 2013, after DEFENDANTS began construction, DBI approved addenda
13 S1.0, S1.2A, S2, S3, and SH1 for permit 200706204573.

14 116. On or around January 4, 2013, DBI issued an NOV (No. 201383312) to
15 104 TARA LLC for suspected work without permit and failure to obtain requisite building inspections.
16 The NOV required the property owners to stop all work.

17 117. On or around January 4, 2013, DBI issued a correction notice stating that, “[i]t has been
18 determined that the actual valuation of work proposed under PA 200706204573 should be estimated at
19 \$1,681,654.15 – permit fees were paid based on a valuation documented as \$1,050,000...”, thereby
20 documenting that DEFENDANTS or their agents undervalued the cost of the construction work by
21 more than \$600,000.

22 118. On January 8, 2013, MEL MURPHY sent a letter to Tom Hui, Acting Director of DBI,
23 attempting to explain how he was able to start construction at 3418 26th Street without obtaining the
24 required permits and inspections. In his letter, MEL MURPHY claimed that he “did not manage the
25 day-to-day activities of such a large construction project” despite obtaining the building permits as the
26 “owner builder” and his role as the RMO for Pattani Construction. MEL MURPHY further
27 acknowledged that “as the owner [he] understood that [he] was ultimately responsible for what
28 happens at [his] project.”

1 119. On or around January 14, 2013, DBI issued a second NOV (No. 201383312) to
2 104 TARA LLC for work without permit in violation of the SF Building Code. The NOV required the
3 owners to stop all work until they obtained the necessary permits, surveys, and inspections. The NOV
4 also imposed a “2x” fee for work exceeding the scope of the permit.

5 120. On or around January 24, 2013, 104 TARA LLC, individually or through its agents,
6 obtained administrative permit number 201301248704 “to document the payment of fees associated
7 with increased valuation as noted on correction notice dated 1/4/13, to partially comply with NOV
8 201383312 for work without permit.”

9 121. DEFENDANTS did not submit the requisite Engineering Report to DBI until on or
10 around February 8, 2014, at which time NOV 201383312 was abated.

11 122. On or around November 27, 2013, 3418 26th Street, Block 6529, Lot 034 was
12 converted to 11 condominiums, designated as Block 6529, Lots 40 through 50.

13 123. On or around January 6, 2014, MEL MURPHY and NUANNOI MURPHY, on behalf
14 of 104 TARA LLC, executed a “Declaration of Conditions, Covenants and Restrictions of
15 3418 26th Street, a Condominium Project and Condominium Plan” (“CC&R”). The CC&R Exhibit A
16 shows four parking spots on the ground level, designated as P-A, P-B, P-C, P-D. The CC&R does not
17 show any accessible parking spaces.

18 124. California Building Code section 1109A requires that multi-family dwellings, such as
19 3418 26th Street, provide at least one accessible parking space.

20 125. On or around March 5, 2014, DBI was unable to give DEFENDANTS a Certificate of
21 Final Completion, because DEFENDANTS had not provided the requisite accessible parking spaces.
22 Rather, DEFENDANTS or their agents had installed a two-level car stacker in each of the four
23 designated parking spots, P-A, P-B, P-C, and P-D, creating eight non-accessible parking spots in the
24 four spaces.

25 126. On or around June 24, 2014, DBI issued a Certificate of Final Completion for the
26 construction of the apartment building at 3418 26th Street, pursuant to Permit Application
27 No. 200706204573, confirming that DEFENDANTS had removed the car stackers and designated the
28

1 requisite accessible parking spaces in areas designated as P-A and P-B with signs and blue paint
2 showing the International Symbol of Accessibility.

3 127. Between June 24, 2014 and November 26, 2014, after receiving the Certificate of Final
4 Completion, DEFENDANTS or their agents re-installed two, two-level car stackers, creating four non-
5 accessible parking spaces, in the area designated for accessible parking at P-A and P-B.
6 DEFENDANTS covered the blue paint showing the International Symbol of Accessibility and
7 removed the signs designating the area as accessible parking.

8 128. On or around August 12, 2014, MEL MURPHY and NUANNOI MURPHY, on behalf
9 of 104 TARA LLC, deeded parking space P-C to Unit 5, Block 6529, Lot 44.

10 129. On or around September 22, 2014, MEL MURPHY and NUANNOI MURPHY, on
11 behalf of 104 TARA LLC, deeded parking space P-B to Unit 2, Block 6529, Lot 41.

12 130. On or around October 15, 2014, MEL MURPHY and NUANNOI MURPHY, on behalf
13 of 104 TARA LLC, deeded parking space P-D to Unit 8, Block 6529, Lot 47.

14 131. On or around November 26, 2014, DBI issued an NOV (No. 201410111) to
15 DEFENDANTS' agent for work without permit in violation of the SF Building Code because
16 DEFENDANTS installed car stackers in the area designated for accessible parking.

17 132. Once again, DEFENDANTS or their agents removed the car stackers and re-designated
18 the accessible parking area by installing signs, by painting the International Symbol of Accessibility
19 on the garage floor. DEFENDANTS abated NOV 201410111 on or around December 24, 2014.

20 133. DEFENDANTS however sold P-B, the loading zone for the designated accessible
21 parking spaces. PLAINTIFFS are informed and believe that DEFENDANTS are not currently
22 providing the requisite accessible parking spaces because P-B is being used instead for residential
23 parking.

24 //

25 //

26 //

27 //

28 //

1 **FIRST CAUSE OF ACTION**

2 **VIOLATION OF THE STATE HOUSING LAW BROUGHT BY PLAINTIFF CITY AND**
3 **COUNTY OF SAN FRANCISCO AGAINST MEL MURPHY AND NUANNOI MURPHY**
4 **(Cal. Health and Safety Code sections 17920 through 17992)**

5 134. Plaintiff CITY incorporates by reference paragraphs 1 through 133 inclusive against
6 Defendants MEL MURPHY and NUANNOI MURPHY, in their individual and representative
7 capacities, and makes them part of this cause of action, as though fully set forth herein.

8 135. Defendants MEL MURPHY and NUANNOI MURPHY now are, and for a
9 considerable period of time heretofore and at all times herein mentioned have been, operating and
10 maintaining the property located at 125 Crown Terrace in San Francisco, California, as a substandard
11 building pursuant to California Health and Safety Code section 17920.3. The conditions creating said
12 substandard buildings are the on-going violations of the San Francisco Municipal Codes. The
13 substandard conditions at the properties endanger the health and safety of the occupants and the
14 general public.

15 136. At all times herein mentioned Defendants MEL MURPHY and NUANNOI MURPHY
16 have had notice and knowledge that the properties are substandard buildings.

17 137. PLAINTIFFS have no adequate remedy at law in that damages are insufficient to
18 protect the public from the harm caused by the conditions described herein.

19 138. Unless said substandard conditions are abated, the occupants of the properties and the
20 residents and citizens of the City and County of San Francisco, will suffer irreparable injury and
21 damage, in that said conditions will continue to endanger the health and safety of the occupants of the
22 properties and the occupants of the adjacent properties and the public.

23 **SECOND CAUSE OF ACTION**

24 **GENERAL PUBLIC NUISANCE**
25 **FOR VIOLATIONS OF CIVIL CODE SECTIONS 3479 AND 3480 BROUGHT BY**
26 **PLAINTIFFS CITY AND COUNTY OF SAN FRANCISCO AND PEOPLE OF THE STATE**
27 **OF CALIFORNIA AGAINST ALL DEFENDANTS**
28 **(Civil Code sections 3479, 3480)**

139. PLAINTIFFS incorporate by references paragraphs 1 through 133, inclusive, and make
them a part of this cause of action, as though fully set forth herein.

1 140. As described above, each of the DEFENDANTS are now, and for a considerable period
2 of time and at all relevant times herein mentioned have been, maintaining at least one of the
3 PROPERTIES in violation of the SF Building Code. Any building, structure, property, or part thereof,
4 that was erected, moved, altered, constructed or maintained in violation of law or ordinance, is unsafe
5 and a public nuisance. SF Building Code § 102A.

6 141. As described above, DEFENDANTS are now, and for a considerable period of time,
7 and at all times herein mentioned have been, maintaining the aforementioned PROPERTIES in such a
8 manner as to constitute a continuing public nuisance within the meaning of Civil Code sections
9 3479 and 3480. The conditions giving rise to said public nuisances are the violations of the municipal
10 codes at the properties. The practices described above are injurious to the health and safety of the
11 residents and the community, are offensive to the senses, and interfere with the comfortable enjoyment
12 of life and properties. The practices described above also affect a considerable number of persons and
13 an entire community or neighborhood.

14 142. At all times herein mentioned, DEFENDANTS knew or should have known that the
15 aforementioned properties were being maintained as public nuisances, but failed to take reasonable
16 steps to timely abate the nuisance.

17 143. Unless enjoined, DEFENDANTS will continue to operate the properties in the above-
18 described public nuisance conditions.

19 144. PLAINTIFFS have no adequate remedy at law in that damages are insufficient to
20 protect the public from the present danger and harm caused by the conditions described above. Unless
21 injunctive relief is granted to enjoin DEFENDANTS, the public will suffer irreparable injury and
22 damage.

23 145. Unless this nuisance is abated, the community, neighborhood, and the residents and
24 citizens of the State of California and the City and County of San Francisco will suffer irreparable
25 injury and damage, in that said conditions will continue to be injurious to the enjoyment and the free
26 use of the life and property of said residents and citizens of the State of California and the City and
27 County of San Francisco.

1 **THIRD CAUSE OF ACTION**
2 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200 - 17210**
3 **BROUGHT BY PLAINTIFF PEOPLE OF THE STATE OF CALIFORNIA**
4 **AGAINST ALL DEFENDANTS**

5 146. Plaintiff PEOPLE incorporates by references paragraphs 1 through 145, inclusive,
6 against all DEFENDANTS and make them a part of this cause of action, as though fully set forth
7 herein.

8 147. The PEOPLE, acting to protect the public as consumers and competitors from unlawful,
9 unfair, and fraudulent practices, brings this cause of action in the public interest in the name of the
10 People of the State of California, pursuant to Business and Professions Code sections 17200 to 17210.

11 148. DEFENDANTS transact business in the form of maintenance, development, and
12 operation of multi-unit residential rental property, and other real estate development projects within
13 the City and County of San Francisco, State of California. The violations of law described herein have
14 been and are being carried out wholly or in part within the City and County of San Francisco.

15 149. California Business and Professions Code section 17200 prohibits any “unlawful, unfair
16 or fraudulent business practices.” As outlined below, DEFENDANTS have engaged in unlawful,
17 unfair and/or fraudulent business acts or practices in violation of section 17200.

18 150. DEFENDANTS’ acts and practices, as set forth in this complaint, constitute unfair
19 business practices because they offend established public policy and cause harm that greatly outweighs
20 any benefits associated with those practices.

21 151. As a direct and proximate result of the foregoing acts and practices, DEFENDANTS
22 have received income, profits, and other benefits, which they would not have received if they had not
23 engaged in the violations of section 17200 described in this Complaint.

24 152. DEFENDANTS’ actions are in violation of the laws and public policies of the City and
25 County of San Francisco and the State of California and are inimical to the rights and interest of the
26 general public.

27 153. By engaging in a pattern and practice of violating the California Civil Code, the
28 California Health and Safety Code, the San Francisco Building and Planning Codes, and the California

1 Business and Professions Code, DEFENDANTS were able to unfairly compete with other property
2 owners in the State of California.

3 154. The PEOPLE have no adequate remedy at law in that damages are insufficient to
4 protect the public from the harm caused by the conditions described in this Complaint.

5 155. Unless injunctive relief is granted to enjoin DEFENDANTS' unlawful business
6 practices, the PEOPLE will suffer irreparable injury and damage.

7 156. By engaging in unlawful business practices described herein, DEFENDANTS are each
8 subject to civil penalties in the amount of \$2,500.00 per violation, pursuant to Business and
9 Professions Code section 17206.

10 157. DEFENDANTS have engaged in unlawful, unfair and/or fraudulent business acts or
11 practices in violation of Section 17200 which include but are not limited to the following:

12 **Violations of San Francisco Building Code § 106A**

13 158. Defendants MEL MURPHY and NUANNOI MURPHY performed and/or authorized
14 construction at the real property located at 1346 Alabama Street without the requisite building,
15 plumbing and/or electrical permits and/or inspections, in violation of SF Building Code section 106A,
16 and to date, have maintained the unauthorized and unlawful construction and failed to take any steps to
17 remove or legalize the unauthorized and unlawful construction.

18 159. Defendants MEL MURPHY and NUANNOI MURPHY have obtained rental income,
19 profits, and other benefits from the illegal dwelling units at 1346 Alabama Street.

20 160. Defendants MEL MURPHY, NUANNOI MURPHY, MURPHY'S
21 1025 HAMPSHIRE ST NO. 1 LLC, and/or MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC
22 performed and/or authorized construction at the real property located at 1025 Hampshire Street
23 without the requisite building, plumbing, and/or electrical permits and/or inspections, in violation of
24 SF Building Code section 106A, and to date, have maintained the unauthorized and unlawful
25 construction and failed to take any steps to remove or legalize the unauthorized and unlawful
26 construction.

27 //

28 //

1 161. Defendants MEL MURPHY, NUANNOI MURPHY, MURPHY'S 1025
2 HAMPSHIRE ST NO. 1 LLC, and/or MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC have obtained
3 rental income, profits, and other benefits from the illegal dwelling units at 1025 Hampshire Street.

4 162. Defendants MEL MURPHY and NUANNOI MURPHY, individually or through their
5 agents, performed work beyond the scope of DBI permits issued for construction at real property at
6 125 Crown Terrace in San Francisco, California, in violation of SF Building Code section 106A.

7 163. Defendants MEL MURPHY and NUANNOI MURPHY saved money and obtained
8 profits and other benefits by failing to comply with DBI's permits and required inspections at
9 125 Crown Terrace.

10 164. Defendants 104 TARA LLC, individually or through its agents, performed and/or
11 authorized construction at the real property located at 3416 26th Street without the requisite building,
12 plumbing and/or electrical permits and/or inspections, in violation of San Francisco Building Code
13 section 106.A.

14 165. Defendants 104 TARA LLC, individually or through its agents, obtained income,
15 profits, and other benefits by failing to comply with DBI's permits at 3416 26th Street.

16 **Violation of San Francisco Planning Code § 209.1**

17 166. Defendants MEL MURPHY and NUANNOI MURPHY illegally converted their real
18 property located at 1346 Alabama Street from two dwelling units to four dwelling units, in violation of
19 San Francisco Planning Code section 209.1, and to date, have maintained the unauthorized and
20 unlawful conversion and failed to take any steps to remove or legalize the unauthorized and unlawful
21 conversion.

22 167. Defendants MEL MURPHY and NUANNOI MURPHY have obtained rental income,
23 profits, and other benefits from the illegal dwelling units at 1346 Alabama Street.

24 168. Defendants MEL MURPHY, NUANNOI MURPHY, MURPHY'S
25 1025 HAMPSHIRE ST NO. 1 LLC, and/or MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC illegally
26 converted their real property located at 1025 Hampshire Street from two dwelling units to three
27 dwelling units, in violation of San Francisco Planning Code section 209.1, and to date, have
28

1 maintained the unauthorized and unlawful conversion and failed to take any steps to remove or
2 legalize the unauthorized and unlawful conversion.

3 169. Defendants MEL MURPHY, NUANNOI MURPHY, MURPHY'S
4 1025 HAMPSHIRE ST NO. 1 LLC, and/or MURPHY'S 1025 HAMPSHIRE ST NO. 2 LLC have
5 obtained rental income, profits, and other benefits from the illegal dwelling units at
6 1025 Hampshire Street.

7 **Violation of Cal. Building Code § 1109A**

8 170. Defendant 104 TARA LLC violated California Building Code section 1109A by failing
9 to provide the requisite van accessible parking space at 3416 26th Street.

10 171. Defendant 104 TARA LLC obtained income, profits, and other benefits by failing to
11 comply with California Building Code section 1109A.

12 **Violations of the State Housing Law**

13 172. Defendants MEL MURPHY and NUANNOI MURPHY violated the State Housing
14 Law by maintaining a substandard building at 125 Crown Terrace.

15 173. Defendants MEL MURPHY and NUANNOI MURPHY obtained income, profits, and
16 other benefits by failing to comply with the State Housing Law.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFFS pray that:

19 1. DEFENDANTS be declared to have violated Civil Code sections 3479 and 3480, the
20 State Housing Law, and the Unfair Competition Law;

21 2. That the real properties located at 1346 Alabama Street, 125 Crown Terrace,
22 3418 26th Street, and 1025 Hampshire Street, in San Francisco, California, each be declared a public
23 nuisance;

24 3. DEFENDANTS, their agents, officers, managers, representatives, employees, and
25 anyone acting on their behalf, and their heirs and assignees be preliminarily and permanently enjoined
26 from operating, conducting, using, renting, leasing, occupying, or in any way permitting the use of the
27 PROPERTIES unless and until all parts thereto conform to law;

1 4. DEFENDANTS, their agents, officers, managers, representatives, employees, and
2 anyone acting on their behalf, and their heirs and assignees be ordered to immediately cause the
3 PROPERTIES and all parts thereof to conform to law;

4 5. DEFENDANTS, their agents, officers, managers, representatives, employees, and
5 anyone acting on their behalf be required in advance of issuance or approval of any permit for any
6 property owned, operated, maintained, improved, or developed by DEFENDANTS to permit a site
7 inspection of the property;

8 6. DEFENDANTS, pursuant to Business and Professions Code section 17206, be ordered
9 to pay a civil penalty of \$2,500 for each act of unlawful and unfair competition in violation of
10 Business and Professions Code section 17200;

11 7. DEFENDANTS, pursuant to Business and Professions Code section 17203, be ordered
12 to restore all rents and purchase proceeds obtained through their unlawful and unfair business practices
13 in violation of Business and Professions Code sections 17200 to 17210;

14 8. DEFENDANTS, and each of them, inclusive, be enjoined from spending, transferring,
15 encumbering, or removing from California any money received from the property or in payment for
16 the unfair and unlawful acts alleged in the Complaint;

17 9. PLAINTIFFS shall be awarded attorneys' fees and costs pursuant to Health and Safety
18 Code section 17980.7;

19 10. PLAINTIFFS be awarded costs incurred herein;

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 11. The Court grant such additional injunctive relief as it finds just and proper; and

2 12. The Court grant such other and further relief as the court should find just and proper.

3
4 Dated: July 28, 2015

DENNIS J. HERRERA
City Attorney
RONALD P. FLYNN
Chief Deputy City Attorney
DAVID PFEIFER
Chief of Public Integrity
THOMAS S. LAKRITZ
YVONNE R. MERÉ
MEGAN CESARE-EASTMAN
Deputy City Attorneys

5
6
7
8
9
10 By: /s/ Thomas S. Lakritz
THOMAS S. LAKRITZ

11 Attorneys for Plaintiffs
12 CITY AND COUNTY OF SAN FRANCISCO and
13 PEOPLE OF THE STATE OF CALIFORNIA
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **PROOF OF SERVICE**

2 I, Martina Hassett, declare as follows:

3 I am a citizen of the United States, over the age of eighteen years and not a party to the above-
4 entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building,
1390 Market Street, Sixth Floor, San Francisco, CA 94102.

5 On July 28, 2015, I served the following document(s):

6 **FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF**

7 on the following persons at the locations specified:

8 Andrew M. Zacks, Esq.
9 Zacks & Freedman
235 Montgomery Street, Suite 400
San Francisco, CA 94104

10 Telephone: (415) 956-8100
11 Facsimile: (415) 288-9755
Email: az@zulpc.com

12 in the manner indicated below:

13 **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of
14 the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with
15 the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's
Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed
for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

16 **BY ELECTRONIC MAIL:** Based on a court order or an agreement of the parties to accept electronic
17 service, I caused the documents to be served electronically through File & ServeXpress in portable document
18 format ("PDF") Adobe Acrobat.

19 I declare under penalty of perjury pursuant to the laws of the State of California that the
foregoing is true and correct.

20 Executed July 28, 2015, at San Francisco, California.

21
22 
23 _____
Martina Hassett