



City Attorney Dennis Herrera News Release

For Immediate Release:
May 6, 2015
Contact: Matt Dorsey
(415) 554-4662

Herrera’s settlement with short-term rental scofflaws secures \$276K penalties, injunction

Defiant landlords used the Ellis Act to evict long-term residents—including a disabled tenant—then marketed vacant flats as ‘vacation rentals’ for up to \$595 per night

SAN FRANCISCO (May 6, 2015)—City Attorney Dennis Herrera has secured \$276,000 in penalties and fees to settle his lawsuit against two of the landlords he sued last year for illegally converting residential apartments into high-priced short-term lodging for tourists. The injunction filed in San Francisco Superior Court also requires that defendants Darren and Valerie Lee abide by strict injunctive provisions prohibiting similarly illegal conduct over the next five years in order to avoid even harsher consequences. Though Herrera’s lawsuit alleged violations of state and local law at only one of the Lees’ properties, the Stipulated Permanent Injunction filed on Monday will apply to all residential properties in San Francisco owned wholly or in-part by the Lees, as well as those they may acquire during the five-year injunctive period.

Before marketing their illegal units to tourists on such platforms as Homeaway.com and VRBO.com, the Lees used the Ellis Act to evict long-term tenants from the units at their 3073-3075 Clay Street property, according to Herrera’s April 2014 complaint. The Ellis Act is a state law that allows landlords to evict tenants and withdraw properties from the residential rental market. One of the tenants evicted was disabled, according to San Francisco Superior Court and Rent Board records also cited in the original civil complaint. While nothing in the Ellis Act precludes commercial use of properties for tourists where long-term tenants have previously been evicted, Herrera’s litigation emphasized longstanding city policy that tourist conversions of residential properties be aggressively policed “in order to protect the residents and to conserve the limited housing resources.”

“A successful settlement like this should send a strong cautionary message to current and would-be wrongdoers that there is a steep price to pay for flouting laws that restrict short-term rental uses in San Francisco,” Herrera said. “Illegal conversions that push long-term tenants out of their homes

[MORE]

diminish the availability of residential rental units for San Franciscans, and they're a significant contributor to our housing affordability crisis. The penalties and tough injunction in this particular case, I think, reflect just how egregious the Lees' conduct was. They repeatedly defied state and local laws to conduct their illegal business, and they also evicted San Franciscans—including a disabled tenant. For helping us to bring this case, I'm grateful for the work of city departments, especially the San Francisco Planning Department, neighbors, and community advocates who work hard to help us pursue this kind of wrongdoing. I encourage tenants and neighbors to report housing-related wrongdoing to my office's Code Enforcement Hotline at (415) 554-3977."

Herrera first filed his civil suit against the Lees just over a year ago, on April 23, 2014, detailing their pervasive violations of the city's Planning Code and state Unfair Competition Law at their Clay Street property. According to Herrera's complaint, the defendants purchased 3073-3075 Clay Street in 2004, and invoked the Ellis Act in 2005 to evict their tenants—including one who was disabled—from both of the property's residential units. Evidence presented in the complaint found that the Lees marketed 3075 Clay Street, a four-bedroom, three-bathroom property, for tourist lodging on such vacation websites such as Homeaway.com and VRBO.com since 2009, describing it as an "exquisitely renovated home, in prime Pacific Heights." The Lees charged their guests between \$395 and \$595 per night for a minimum stay of three nights.

But in doing so, the owners flouted San Francisco's longstanding conditional use authorization process requirements—depriving neighbors and city planners of their role to first determine whether the conversion is necessary or desirable; compatible with the neighborhood; detrimental to the City's housing stock; or consistent with the city's Planning Code or Planning Department's General Plan. According to Herrera's complaint, San Francisco's Planning Department repeatedly cited the Lees for their illegal use of the property for commercial tourist lodging, even collecting penalties of as much \$250 per day for violations. The Lees—who at one point assured Planning Department officials that the units were rented to long term tenants—then defiantly resumed marketing and renting their property to tourists, which ultimately led Herrera to file his lawsuit.

The case is: *City and County of San Francisco and People of the State of California v. Darren Lee et al.*, San Francisco Superior Court No. 538857, filed April 23, 2014. For more information on the San Francisco City Attorney's Office, visit: <http://www.sfcityattorney.org/>.

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COPY

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ENDORSED
FILED
San Francisco County Superior Court
MAY 04 2015
CLERK OF THE COURT
BY: LISA OLOPERNES-PENA
Deputy Clerk

8 Attorneys for Plaintiffs
9 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
15 FRANCISCO, a Municipal Corporation,
16 and the PEOPLE OF THE STATE OF
17 CALIFORNIA, by and through DENNIS
J. HERRERA, City Attorney for the CITY
AND COUNTY OF SAN FRANCISCO,

Case No. CGC-14-538857

**STIPULATED PERMANENT
INJUNCTION**

18 Plaintiffs,

19 vs.

20
21 DARREN LEE, VALERIE LEE, 3073-
3075 CLAY STREET, LLC, JEFFERSON
22 CHEN, AND DOE ONE THROUGH
DOE FIFTY,

Date Action Filed: April 23, 2014

Attached Documents: Exhibits A-C

23 Defendants.
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1
2 This Stipulated Permanent Injunction ("Injunction" or "Order") is the result of a
3 negotiated compromise between the Parties and was presented before the above-captioned Court,
4 the Honorable Ronald E. Guindon presiding. Plaintiffs CITY AND COUNTY OF SAN
5 FRANCISCO and PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J.
6 HERRERA, City Attorney for the CITY AND COUNTY OF SAN FRANCISCO ("Plaintiffs"),
7 were represented by DENNIS J. HERRERA, City Attorney, appearing through MICHAEL
8 WEISS and VICTORIA L. WEATHERFORD, Deputy City Attorneys. Defendants DARREN
9 LEE, VALERIE LEE, AND 3073-3075 CLAY STREET, LLC (collectively, "Defendants") were
10 represented by their attorneys, JEFFERY WOO, ESQ. and EDWARD SEIDEL, ESQ.

11 Plaintiffs have alleged that from 2008-2014, the residential building commonly known
12 and described as 3073-3075 Clay Street, San Francisco, California, (the "Property") and more
13 particularly described in **Exhibit A**, attached hereto and incorporated herein, was unlawfully
14 converted from residential dwelling units into an unpermitted tourist hotel without the requisite
15 Conditional Use authorization, and was otherwise operated in violation of the UCL. Defendants
16 have denied engaging in wrongful conduct.

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

19 Defendants having stipulated to the provisions set forth herein, the Court having
20 reviewed the provisions, the Parties having agreed to the issuance of this Order, and good cause
21 appearing therefor,

22 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

23 **A. JURISDICTION.**

24 This Court has jurisdiction over the subject matter of this lawsuit and each of the parties
25 in this action. The Court issues this Order pursuant to its authority under San Francisco Planning
26 Code Section 176 and California Business and Professions Code Section 17203.

27 The Court expressly retains jurisdiction to modify this Order as the ends of justice may
28

1 require. The Court may hear and decide issues regarding the scope and effect of the injunctive
2 provisions, herein. Any party to this Order may apply to the Court at any time, after making a
3 reasonable effort to meet and confer with the other parties, for further orders and directions as
4 may be necessary or appropriate for the construction, application or carrying out of the injunctive
5 provisions, herein. The Court can modify any of the injunctive provisions herein and take such
6 further action as may be necessary or appropriate to carry into effect the injunctive provisions
7 hereof, and for the punishment of violations of same, if any.

8 **B. INJUNCTIVE TERM.**

9 The injunctive provisions of this Order shall be in effect for 5 years from the date of
10 execution (“Injunctive Term”), unless extended or shortened by mutual written agreement of the
11 Parties or by further order of the Court.

12 **C. APPLICATION.**

13 The injunctive provisions of this Order are applicable to Defendants, as well as his/her/its
14 employees, property managers, agents, representatives, lessees, servants, successors, assigns,
15 and to all persons who are acting in concert or participation with them or any of them, in
16 connection with any San Francisco real property managed and/or owned, in whole or in part, by
17 any of the Defendants, in their own names, or as members of any limited liability company,
18 partnership, or other corporate entity, including but not limited to, the properties listed on Exhibit
19 C, attached hereto, and any real property in which they acquire an ownership interest during the
20 Injunctive Term.

21 **D. CONDUCT PROHIBITED.**

22 **By this Order, Defendants, and each of them, are henceforth enjoined and**
23 **restrained from:**

24 1. Maintaining the Property, or any other San Francisco real property managed
25 and/or owned, in whole or in part, by any of the Defendants, in their own names, or as members
26 of any limited liability company, partnership, or other corporate entity, including but not limited
27 to the properties listed on Exhibit C, attached hereto, and any real property in which they acquire

1 an ownership interest during the Injunctive Term, in such a manner or condition as to violate San
2 Francisco Planning Code sections 209.1, 209.2(d), 303, 306, *et seq.*, and/or 317, and/or any other
3 present or future San Francisco Municipal ordinance, code, statute, regulation or other provision
4 related to the operation of short term rentals or hotels, and/or the conversion of residential
5 dwelling unit(s) to short-term rentals, or tourist or transient use, or hotels, or California Business
6 and Professions Code Section 17200 *et seq.* as it relates to the operation of short term rentals or
7 hotels, and/or the conversion of residential dwelling unit(s) to short-term rentals, or tourist or
8 transient use, or hotels.

9 **E. NOTICE TO SUBSEQUENT INTEREST HOLDERS.**

10 Should Defendants sell, transfer, assign, or otherwise dispose of the Property, Defendants
11 shall:

- 12 1. Notify the City Attorney's Office of the proposed sale, transfer, assignment, or other
13 disposition;
- 14 2. Identify under oath any relationship between Defendants and the purchaser, transferee
15 or assignee;
- 16 3. Prior to forming the sale, transfer, assignment, or other disposition, give notice and
17 provide a copy of this Order to the purchaser, transferee or assignee;
- 18 4. Prior to (or from the escrow associated with) the proposed sale, transfer, assignment,
19 or other disposition, pay all amounts still owed to Plaintiffs; and
- 20 5. Require the purchaser, transferee or assignee, as a condition of the sale, transfer,
21 assignment or other disposition, to sign this Order and agree to be bound by its terms without
22 limitation, by completing and endorsing the Addendum attached to this Order, unless such a
23 purchaser is a bona fide third party purchaser, as described in **Section E.6** below. *See Exhibit B.*
- 24 6. The provisions of **Section E.5** shall not apply to any sale, transfer, assignment or
25 disposition of the entire interest in the Properties to a *bona fide* third party purchaser. A bona
26 fide third party is any entity or individual except: i) Defendants, or any of them; ii) any company,
27 partnership, corporation, limited liability company or other entity affiliated in any way with any

1 of the Defendants, or in which any of the Defendants has any interest; iii) any person related at
2 any time by blood, marriage, adoption, or civil union to any of the Defendants, or any entity
3 (including but not limited to any company, partnership, corporation, or limited liability
4 company) or trust affiliated with such person or in which such person has any interest; iv) any
5 trust created in part or in full for the benefit of any Defendant; v) any trust created in part or in
6 full for the benefit of any person related at any time by blood, marriage, adoption, or civil union
7 to any Defendant.

8 **F. ENFORCEMENT.**

9 1. A violation of this Order may constitute contempt of Court. The terms of this
10 Order may be enforced through a contempt proceeding, a motion to enforce, a separate lawsuit,
11 or any other proceeding recognized by the Court for enforcement of an injunction.

12 2. In the event that the Court determines, after hearing, that Defendants violated any
13 of the terms of this Order, Defendants shall be liable for further sanctions, including civil
14 penalties, as authorized by this Order, by any statute, and/or by any ordinance, including, but not
15 limited to, up to \$6,000 per violation under California Business and Professions Code Section
16 17207.

17 3. Any fines, penalties, or other monetary relief sought for violation of this Order,
18 shall be in addition to any other relief or sanctions that the Court may order as a matter of law or
19 equity.

20 4. Defendants shall be liable for Plaintiffs' reasonable attorney's fees and costs
21 incurred for the enforcement of this Injunction.

22 5. The Court expressly reserves jurisdiction to take such further action as may be
23 necessary or appropriate to carry into effect the provisions of this Order.

24 **G. RECORDATION.**

25 This Stipulated Injunction shall be filed with this Court and recorded with the San
26 Francisco Recorder's Office.

27 **H. NO WAIVER OF RIGHT TO ENFORCE.**

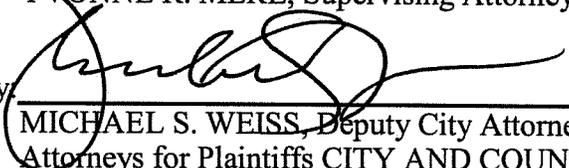
1 The failure of Plaintiffs to enforce any provision of this Stipulated Injunction shall in no
2 way be deemed a waiver of such provision or in any way affect the validity of either the
3 Injunction. The failure of Plaintiffs to enforce any such provision shall not preclude Plaintiffs
4 from later enforcing the same or any other provision of the Injunction.

5 No oral advice, guidance, suggestion or comments by Plaintiffs, or anyone acting on
6 Plaintiffs' behalf, regarding matters covered in the Injunction shall be construed to relieve
7 Defendants of their obligations.

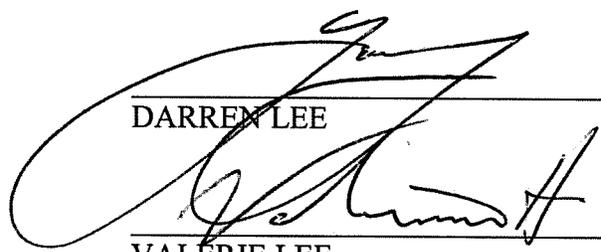
8 SO STIPULATED:

9 Dated: 4.28.15

DENNIS J. HERRERA, City Attorney
YVONNE R. MERÉ, Supervising Attorney

11 By 
12 MICHAEL S. WEISS, Deputy City Attorney
13 Attorneys for Plaintiffs CITY AND COUNTY OF
14 SAN FRANCISCO and PEOPLE OF THE STATE
OF CALIFORNIA

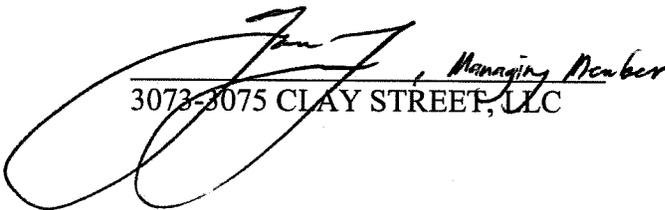
15 Dated: 4.28.15


16 DARREN LEE

17 Dated: 4.28.15


18 VALÉRIE LEE

19 Dated: 4.28.15


20 3073-3075 CLAY STREET, LLC
21 *Managing Member*

22 IT IS SO ORDERED:

23 RONALD E. QUIDACHAY

24 DATED: ~~4.28.15~~

MAY 04 2015

JUDGE OF THE SUPERIOR COURT
25 RONALD E. QUIDACHAY

26 Approved as to Form:

27 Dated: 4.28.15


28 JEFFERY WOO, ESQ.
COUNSEL FOR DEFENDANTS

EXHIBIT A

Property Address:
3073-3075 Clay St

1
2
3 All that property in the City and County of San Francisco, State of California, described
4 as follows:

5
6 COMMENCING at a point on the Southerly line of Clay Street, distant thereon 110 feet
7 Easterly from the Easterly line of Baker Street; running thence Easterly along said line of Clay
8 Street 27 feet and 6 inches; thence at a right angle Southerly 87 feet and 8-1/4 inches to the point
9 of commencement.

10
11 BEING a portion of WESTERN ADDITION BLOCK NO. 542
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1 **EXHIBIT B**

2 **ADDENDUM TO STIPULATED INJUNCTION**

3
4 *CCSF v. DARREN LEE, et al., San Francisco Superior Court Case Number CGC 14 538-857*

5 **AGREEMENT OF PURCHASERS, TRANSFEREES, ASSIGNEES**
6 **TO BE BOUND BY THE TERMS OF THE INJUNCTION**

7 _____ (NAME of purchaser, transferee, assignee) is a purchaser, transferee,
8 assignee of the property located at 3073-3075 Clay Street, San Francisco, California.

9 _____ (NAME) has received a copy of the Stipulated Injunction (the
10 "Injunction") issued by the Court on _____ and filed in this action on
11 _____ and has read its contents.

12 _____ (NAME) agrees to be bound without limitation by the terms of the
13 Injunction, and agrees to perform any and all obligations of Defendants DARREN LEE, VALERIE
14 LEE, 3073-3075 CLAY STREET, LLC, and JEFFERSON CHEN, that may be required under the
15 terms of the Injunction or under such Court order as may be necessary or appropriate to enforce the
16 provisions thereof.

17 _____ (NAME) further agrees that the Court shall have jurisdiction over
18 _____ (NAME) to enforce the terms of this Injunction and to issue such orders as may
19 be necessary or appropriate to enforce the provisions thereof.

20
21 DATED:

22 _____
23 (NAME)
24 PURCHASER/TRANSFEREE/ASSIGNEE

EXHIBIT C

1
2 Partial list of San Francisco properties in which Defendants Darren Lee, Valerie Lee,
3 and/or 3073-3075 Clay Street LLC, have an ownership interest, either in their own name(s), or in
4 the name of any corporate entity in which they are a member or have an interest:
5

6 **439 Broderick Street**

7 **645-647 Broderick Street**

8 **3073-3075 Clay Street**

9 **417-419 Clayton Street**

10 **1146-1148 Fell Street**

11 **1324-1328 Fell Street**

12 **1522-1524 Fell Street**

13 **140 Graystone Terrace**

14 **150 Graystone Terrace**

15 **1109-1123 Leavenworth Street**

16 **1925-1927 Lyon Street**

17 **822-828 Masonic Street**

18 **1145-1149 Mission Street**

19 **20 Natick Street**

20 **831-833 San Jose Avenue**

21 **14 Surrey Avenue**

22 **1362-1364 Utah Street**
23
24
25
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28

COPY

ENDORSED
FILED
San Francisco County Superior Court

APR 23 2014

CLERK OF THE COURT
ELIAS BUTT
Deputy Clerk

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City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief Attorney
3 Neighborhood and Resident Safety Division
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8 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and
9 PEOPLE OF THE STATE OF CALIFORNIA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12 UNLIMITED JURISDICTION
13

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
18 Plaintiffs,

19 vs.

20 DARREN LEE, VALERIE LEE, 3073-3075
CLAY STREET LLC, JEFFERSON CHEN,
21 and DOE ONE THROUGH DOE FIFTY

22 Defendants.
23

Case No. CGC - 14 - 538857

COMPLAINT FOR INJUNCTIVE AND OTHER
RELIEF

[REAL PROPERTY]

Type of Case: (42) Other Complaint

24 The CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation "SAN
25 FRANCISCO"), and the PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J.
26 HERRERA, City Attorney for the City and County of San Francisco ("PEOPLE"), (collectively,
27 "Plaintiffs") for their complaint against DARREN LEE ("DLEE"), VALERIE LEE ("VLEE"), 3073-
28 3075 CLAY STREET, LLC ("LLC"), JEFFERSON CHEN ("CHEN"), and DOE ONE through DOE

1 FIFTY (collectively “Defendants”), hereby allege as set forth below:

2 INTRODUCTION

3 1. SAN FRANCISCO is currently in the midst of a historic housing crisis. Due to the lack
4 of a sufficient number of residential housing units to meet growing demand from prospective owners
5 and renters, and skyrocketing sales prices and rents, many middle and low-income residents of San
6 Francisco are unable to secure and maintain safe, habitable, and affordable housing. As noted in a
7 recent New York Times article, “San Francisco has the least affordable housing in the nation, with just
8 14 percent of homes accessible to middle class buyers The median rent is also the highest in the
9 country, at \$3250 a month for a two bedroom apartment.” Erica Goode and Claire Cain Miller,
10 *Backlash by the Bay: Tech Riches Alter a City*, New York Times (Nov. 24, 2013).

11 2. San Francisco’s Rent Stabilization and Arbitration Ordinance, codified as San
12 Francisco Administrative Code § 37 (“Rent Ordinance”), which covers approximately 172,000
13 residential units, should mitigate the effects of such an explosive housing market by capping annual
14 rent increases and permitting evictions only under limited circumstances. But these rent-controlled
15 units are being threatened as more property owners -- looking to cash in on the popularity of short-
16 term vacation rentals -- are illegally turning once-residential property into hotels for short-term tourist
17 rentals. Such rentals cater to visitors rather than residents, displace long-term tenants, and jeopardize
18 the character of the City’s neighborhoods.

19 3. SAN FRANCISCO has long recognized the need to protect its residential housing stock
20 from conversion to other uses. The San Francisco Board of Supervisors has found that “San Francisco
21 faces a continuing shortage of affordable housing. There is a high ratio of rental to ownership tenure
22 among the City’s residents. The General Plan recognizes that existing housing is the greatest stock of
23 rental and financially accessible residential units, and is a resource in need of protection.” San
24 Francisco Planning Code (“Planning Code”) § 317(a).

25 4. SAN FRANCISCO’s Board of Supervisors has also found that “[t]here is a severe
26 shortage of decent, safe, sanitary and affordable rental housing in the City and County of San
27 Francisco....” that “[t]he conversion of residential units to tourist and transient use impacts especially
28 on persons seeking housing in the low to moderate price range,” and that “[i]t is in the public interest

1 that conversion of residential units be regulated and that remedies be provided when unlawful
2 conversion has occurred, in order to protect the residents and to conserve the limited housing
3 resources.” San Francisco Administrative Code (“Admin. Code”) § 41A.3.

4 5. In some cases, property owners hasten natural tenant attrition by invoking the Ellis Act
5 (California Government Code §§ 7060 *et seq.*), which protects the rights of property owners to
6 withdraw all rental units within a building from residential rent or lease. In cases such as this one,
7 owners displace a long-term tenant under the guise of removing the apartment unit from the rental
8 market pursuant to the Ellis Act, only to have the unit return as a short-term rental. Converting
9 residential apartment units into short-term rentals further aggravates the housing crisis. “In a tight
10 housing market, the results [of such short-term apartment rentals] can be dire: fewer places on the
11 rental market, increased evictions, and rising rents for everyone.” Rachel Monroe, *More Guests,*
12 *Empty Houses*, slate.com (Feb. 13, 2014).

13 6. The conversion of residential units into tourist hotels has significantly contributed to
14 the housing shortage in San Francisco, and is exemplified on websites advertising private short-term
15 vacation rentals. For example, on April 10, 2014:

- 16 • www.airbnb.com advertised **6,225** rentals in San Francisco;
- 17 • www.vrbo.com advertised **1,413** rentals in San Francisco;
- 18 • www.homeaway.com advertised **1,351** rentals in San Francisco; and
- 19 • www.flipkey.com advertised **511** rentals in San Francisco

20 7. Apartment units are considered “residential” occupancies and as such must comply
21 with provisions of the Planning and Administrative Codes. Using apartment units for tourist stays
22 without the requisite Conditional Use authorization violates multiple sections of the San Francisco
23 Planning Code. See, e.g., Planning Code §§ 209.2, 303, 306 and 317.

24 8. This action arises out of Defendants’ ownership, maintenance, operation, management
25 and use of their two-unit residential property located at 3073-3075 Clay Street, San Francisco,
26 California (referred to individually as “Unit 3073” or “Unit 3075” and collectively as the “Property”)
27 in violation of the San Francisco Planning Code.
28

1 have engaged in, and continue to engage in, unfair and unlawful business practices in violation of
2 California Business and Professions Code Sections 17200-17210.

3 **UNIT 3075**

4 16. Following the invocation of the Ellis Act and the eviction of the long-term tenants, Unit
5 3075 was taken off the rental market effective December 23, 2005.

6 17. In approximately 2009, Defendants DLEE, VLEE and LLC converted Unit 3075 into a
7 tourist hotel without obtaining a Conditional Use authorization from the San Francisco Planning
8 Commission, in violation of Planning Code Sections 209.2, 303, 306 and 317. The conversion was
9 unlawful and had the effect of removing one more unit from SAN FRANCISCO's precious housing
10 stock.

11 18. Since at least 2009, Defendants DLEE, VLEE and LLC have been advertising Unit
12 3075 on vacation websites such as www.VRBO.com and www.Homeaway.com. These online
13 advertisements describe Unit 3075 as an "exquisitely renovated home, in prime Pacific Heights,"
14 which sleeps 12 and includes four bedrooms and three bathrooms, available for rent for \$395-\$595 per
15 night, for a minimum stay of three nights. To the dismay of the neighbors, Defendants DLEE, VLEE
16 and LLC have regularly and repeatedly rented Unit 3075 to large and noisy groups hosting
17 bachelorette parties, reunions, and corporate retreats.

18 19. Despite SAN FRANCISCO's efforts since 2009 to secure Defendants' compliance with
19 the Planning Code, including issuing notices and orders, and the assessment of administrative penalties
20 of \$250 per day, Defendants DLEE, VLEE and LLC, with the assistance of Defendants CHEN and
21 DOE ONE through DOE FIFTY, have continued to operate their illegal, lucrative tourist hotel,
22 advertising Unit 3075 for short-term rental periods, priced at \$395-\$595 per night (the equivalent of
23 \$11,850-\$17,850 per month), on hosting platforms such as www.VRBO.com and
24 www.Homeaway.com.

25 20. By unlawfully converting and maintaining Unit 3075 from a residential dwelling unit to
26 a tourist hotel without obtaining Conditional Use authorization from the San Francisco Planning
27 Commission, Defendants have engaged in, and continue to engage in, unfair and unlawful business
28 practices in violation of California Business and Professions Code Sections 17200-17210.

1 **PARTIES AND SUBJECT PROPERTY**

2 21. Plaintiff SAN FRANCISCO is a municipal corporation organized and existing under
3 and by virtue of the laws of the State of California. SAN FRANCISCO brings this action under San
4 Francisco Planning Code Section 176.

5 22. Plaintiff PEOPLE, by and through Dennis J. Herrera, City Attorney for the City and
6 County of San Francisco, brings this action pursuant California Business and Professions Code
7 Sections 17200-17210, also known as the Unfair Competition Law (“UCL”).

8 23. At all relevant times herein, Defendants DLEE and VLEE as individuals and/or as a
9 members of Defendant LLC, along with Defendant CHEN, have been the owners, operators,
10 managers, lessors, agents, and/or maintainers of the real property and all buildings and other
11 improvements located at 3073-3075 Clay Street, Block 1005, Lot 022, in the City and County of San
12 Francisco, State of California, more particularly described in Exhibit A, which is attached hereto and
13 incorporated as part of this Complaint.

14 24. Defendant DLEE, as an individual and/or as a member of Defendant LLC, is sued in his
15 capacity as the owner, lessor, and/or manager of the Property, and as the person committing the acts
16 alleged in this Complaint, or the person allowing or directing the commission of the acts alleged in this
17 Complaint. Plaintiffs are informed and believe that DLEE is a California licensed realtor with San
18 Francisco’s Vanguard Properties, and a real estate investor in San Francisco. DLEE is a member of
19 numerous California limited liability companies.

20 25. Defendant VLEE, as an individual and/or as a member of Defendant LLC, is sued in
21 her capacity as the owner, lessor, and/or manager of the Property, and as the person committing the
22 acts alleged in this Complaint, or the person allowing or directing the commission of the acts alleged
23 in this Complaint. Plaintiffs are informed and believe that VLEE is a real estate investor in San
24 Francisco, and a member of numerous California limited liability companies.

25 26. Defendant LLC is a California Limited Liability Company, registered with the Office
26 of the California Secretary of State, and is sued in its capacity as the owner, lessor, and/or manager of
27 the Property. Defendant LLC's members include Defendant DLEE and Defendant VLEE.

28 27. Plaintiffs are informed and believe that Defendant CHEN is a civil engineer licensed by

1 the State of California, and a real estate investor who owns several San Francisco properties in
2 partnership with Defendants DLEE and VLEE, individually, and/or as members of various business
3 entities. Plaintiffs are further informed and believe that Defendant CHEN is also an employee, agent,
4 and/or person acting in concert with Defendants DLEE, VLEE and/or LLC, and aiding and abetting
5 their use of Unit 3075 as a tourist hotel.

6 28. DOE ONE through DOE FIFTY are sued herein under fictitious names. Plaintiffs do
7 not at this time know the true names or capacities of said Defendants, but pray that the same may be
8 alleged herein when ascertained.

9 29. At all times herein mentioned, each Defendant was an agent, servant, employee,
10 partner, franchisee and/or joint venturer of each other Defendant, and at all times was acting within the
11 course and scope of said agency, service, employment, partnership, franchise and/or joint venture.

12 30. Actions taken, or omissions made, by Defendants' employees or agents in the course of
13 their employment or agency are considered to be actions or omissions of Defendants for the purposes
14 of this Complaint.

15 31. Whenever reference is made in this Complaint to any act or omission of "Defendants"
16 such allegation shall mean that each Defendant did or authorized or permitted the act or omission, or
17 recklessly and carelessly failed to supervise, control, or direct other persons who engaged in the act or
18 omission.

19 **JURISDICTION AND VENUE**

20 32. The Superior Court has jurisdiction over this action. Defendants have conducted and
21 continue to conduct unlawful and unfair business practices in California, and the City Attorney for the
22 City and County of San Francisco has the right and authority to prosecute these cases on behalf of the
23 People.

24 33. Venue is proper in this Court because Defendants transact business by owning,
25 managing, operating and/or maintaining residential property within the City and County of San
26 Francisco ("San Francisco") in violation of the Unfair Competition Law. The acts complained of
27 occurred in whole or in part in San Francisco and/or caused injury to citizens of San Francisco.
28

1 **APPLICABLE LAW**

2 34. The San Francisco Planning Code divides San Francisco into zoning districts, which are
3 subject to specific Planning Code regulations and requirements to maintain consistency with the
4 characteristics of the districts. Planning Code § 102.5.

5 35. The San Francisco Planning Code’s zoning provisions are designed to: 1) guide, control
6 and regulate future growth and development in San Francisco; 2) protect the character and stability of
7 residential, commercial and industrial neighborhoods, and promote orderly and beneficial
8 development of such areas; 3) provide adequate light, air, privacy and convenience of access to
9 property, and secure safety from fire and other dangers; 4) prevent overcrowding and undue
10 congestion of population; and 5) regulate the location and use of buildings and land adjacent to streets
11 and thoroughfares. Planning Code § 101. SAN FRANCISCO adopted priority policies to use when
12 interpreting the Planning Code, which include: 1) conserving and protecting existing housing and
13 neighborhood character; and 2) enhancing and preserving San Francisco’s supply of affordable
14 housing. Planning Code § 101.1.

15 36. Planning Code Residential Districts are designed to, among other things, preserve,
16 improve, and maintain existing housing stock in San Francisco, and maximize housing choice by
17 assuring a variety of quality units to own or rent, for a broad range of household types, lifestyles, and
18 economic levels. Planning Code § 206.

19 37. An RH-3 Residential District contains primarily one, two and three unit residential
20 dwellings suitable for family occupancy, with limited non-residential use buildings. Planning Code §§
21 206.1, 209.1.

22 38. A residential “dwelling unit” is a room or suite of rooms designed for single-family use,
23 having only one kitchen, and, when rented, it must be for one month or longer. A unit rented for less
24 than one month is considered a hotel. Planning Code § 102.7.

25 39. Hotels, which are offered for compensation and are primarily for accommodation of
26 transient overnight guests, are prohibited in RH-3 Districts absent Conditional Use authorization from
27 the San Francisco Planning Commission. Planning Code § 209.2(d). Even with Conditional Use
28

1 authorization, a property owner in an RH-3 District may only operate a hotel containing no more than
2 five guest rooms or suites of rooms, none with individual cooking facilities. *Ibid.*

3 40. A property owner's conversion of a residential dwelling unit to any non-residential use,
4 is prohibited without first obtaining Conditional Use authorization from the Planning Commission.
5 Planning Code § 317.

6 41. In order to obtain a Conditional Use authorization to convert a residential dwelling unit
7 into a non-residential use, a property owner must seek and obtain authorization from the San Francisco
8 Planning Commission at a noticed public hearing. Planning Code §§ 303, 306 and 317. When
9 deciding whether to grant or deny authorization, the Planning Commission must make determinations,
10 including, but not limited to the following: 1) whether the conversion will be detrimental to SAN
11 FRANCISCO's housing stock; 2) whether the conversion would eliminate only owner occupied
12 housing, and if so, for how long the units were owner occupied; and 3) whether the conversion would
13 provide desirable new non-residential uses appropriate for the neighborhood and adjoining districts.
14 *Ibid.*

15 42. In order to obtain a Conditional Use authorization to operate a hotel in an RH-3
16 District, a property owner must seek and obtain the authorization from the San Francisco Planning
17 Commission at a noticed public hearing. Planning Code §§ 209.2(d), 303 and 306. When deciding
18 whether to grant or deny authorization, the Planning Commission must make determinations,
19 including, but not limited to the following: whether the proposed use will provide a development that
20 is necessary or desirable for, and compatible with, the neighborhood or community; whether the
21 proposed use will comply with applicable provisions of the Planning Code and conform to the
22 Planning Department General Plan; and whether the proposed use will be detrimental to the health,
23 safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to
24 property, improvements or potential development in the vicinity. *Ibid.*

25 GENERAL ALLEGATIONS

26 43. On or about June 18, 2004, Defendants DLEE and VLEE purchased the Property. The
27 Property is a Victorian-era, two-unit, residential dwelling, built in 1900, and located in the Pacific
28 Heights District in the City and County of San Francisco, California. Plaintiffs are informed and

1 believe that Units 3073 and 3075 each consist of four bedrooms, three bathrooms, a kitchen, a living
2 room and a dining room.

3 44. The Property is located within a Residential House-3 (“RH-3”) Zoning District.

4 45. At the time of the purchase, both rent-controlled units were occupied by long-term
5 residential tenants. Unit 3073 was occupied by a disabled tenant who had been living in the unit for
6 more than ten years, paying \$1087 per month, and Unit 3075 was occupied by a young family who
7 had been living in the unit for two years, paying \$2200 per month.

8 **DEFENDANTS INVOKE ELLIS ACT TO TAKE UNITS OF RENTAL MARKET - 2005**

9 46. In January 2005, less than seven months after acquiring the Property, and again in
10 August 2005, Defendants DLEE and VLEE filed Notices of Termination of Tenancy, pursuant to the
11 Ellis Act and Section 37.9(a)(13) of the Rent Ordinance, in an effort to take both residential units off
12 the rental market and evict the long-term tenants, including the disabled tenant in Unit 3073. By
13 precluding local governments from enacting legislation requiring landlords to remain in the residential
14 rental business, the Ellis Act permits a landlord to evict residential tenants if the landlord intends to
15 remove all units in the building from the rental market and go out of the rental business. While a
16 landlord may remove all units from the rental market, Section 7060.7 of the Ellis Act makes clear that
17 local governments retain the authority over land use, including regulation of the conversion of housing
18 to condominiums or other subdivided interests or to other nonresidential uses following removal from
19 the rental market.

20 47. As a consequence of Defendants DLEE and VLEE invoking the Ellis Act to evict the
21 long-term tenants, the Property became subject to several restrictions, including limits on the amount
22 of rent that could be charged if the units were re-rented. Some Ellis Act-imposed restrictions, such as
23 the rent cap, remained in place for five years from the date the was removed from the rental market,
24 others for ten years.

25 48. On August 18, 2008, Defendants DLEE and VLEE transferred the Property to
26 Defendant LLC, an entity formed on May 12, 2008. Defendant LLC’s only members are Defendants
27 DLEE and VLEE. At all times relevant to the allegations contained in this Complaint, Defendant
28

1 LLC's agent for service of process has been Defendant DLEE, and the address of record has been:
2 1148 Fell Street, San Francisco, California 94117.

3 49. Defendants DLEE, VLEE and LLC have never sought nor obtained Conditional Use
4 authorization from the Planning Commission to convert either unit of the Property from a residential
5 dwelling unit to a non-residential use, such as a tourist hotel. The only authorized use of the Property
6 is as two residential dwelling units.

7 UNIT 3073

8 50. Following the invocation of the Ellis Act, and the eviction of the disabled long-term
9 tenant, Unit 3073 was removed from the rental market. On January 11, 2006, the Rent Board recorded
10 a Notice of Constraints on Real Property, which provided that Unit 3073 would be withdrawn from the
11 rental market effective August 25, 2006, and subject to ten years worth of various restrictions. One
12 such restriction, in effect for the first five years, until August 25, 2011, capped the amount of rent that
13 could be charged if Unit 3073 were re-rented, to the same amount of rent paid by the evicted tenant -
14 \$1,087 per month - plus annual incremental increases as allowed by the Rent Ordinance. Government
15 Code §§ 7060.2(a) and (d). A true and correct copy of the Notice of Constraints on Real Property is
16 attached hereto as Exhibit B, and incorporated herein as part of this Complaint.

17 51. Although Unit 3073 had been removed from the rental market, the only legal use of the
18 Unit 3075 remained a residential dwelling unit.

19 UNIT 3075

20 52. Following the invocation of the Ellis Act and the eviction of the long-term tenants, Unit
21 3075 was taken off the rental market. On January 11, 2006, the Rent Board recorded a Notice of
22 Constraints on Real Property, which provided that Unit 3075 had been withdrawn from the rental
23 market effective December 23, 2005, and subject to ten years worth of various restrictions.

24 53. Though Unit 3075 had been removed from the rental market, the only legal use of the
25 Unit 3075 remained a residential dwelling unit.

26 **SHORT-TERM RENTALS - 2009**

27 54. Plaintiffs are informed and believe that in or about 2009, Defendants DLEE, VLEE,
28 and LLC, converted Units 3073 and 3075 from residential dwelling units into a tourist hotel without

1 obtaining a Conditional Use authorization from the San Francisco Planning Commission, in violation
2 of Planning Code Sections 209.2, 303, 306 and 317. The conversion was unlawful and had the effect
3 of removing two units from SAN FRANCISCO's precious housing stock.

4 55. Plaintiffs are informed and believe that in or about 2009, Defendants began operating a
5 tourist hotel in an RH-3 District, by advertising for rent and renting Unit 3073 and Unit 3075 on a
6 short-term basis - between 3 and 25 days - to tourists, business travelers, groups, leisure travelers, and
7 other visitors to San Francisco, without first obtaining the requisite Conditional Use authorization
8 from the San Francisco Planning Commission.

9 56. By avoiding the Conditional Use authorization process when they changed the lawful
10 use of Unit 3073 and Unit 3075 from residential dwelling units to a tourist hotel, Defendants DLEE,
11 VLEE, and LLC, deprived SAN FRANCISCO of the ability to make the determinations ordinarily
12 made when deciding whether to grant or deny a Conditional Use application, including, but not limited
13 to: whether the proposed use will provide a development that is necessary, desirable for, and
14 compatible with, the neighborhood or the community; whether the use proposed will be detrimental to
15 the health, safety, convenience or general welfare of persons residing or working in the vicinity, or
16 injurious to property, improvements or potential development in the vicinity; and whether the
17 proposed use will comply with the Planning Code and will not adversely affect the General Plan.
18 Planning Code §§ 101, 101.1 and 303.

19 57. By avoiding the Conditional Use authorization process when they converted Unit 3073
20 and Unit 3075 from residential use to non-residential use, Defendants DLEE, VLEE, and LLC,
21 deprived SAN FRANCISCO of the ability to make the determinations ordinarily made when deciding
22 whether to grant or deny a Conditional Use application to convert a residential unit to a tourist use,
23 including, but not limited to: whether conversion of the unit(s) will be detrimental to SAN
24 FRANCISCO's housing stock; whether the conversion of the unit will remove affordable housing, or
25 units subject to rent control; and whether the conversion would provide desirable new non-residential
26 use(s) appropriate for the neighborhood and adjoining district(s). Planning Code § 317.

27 58. Bypassing the Conditional Use authorization process when they converted Unit 3073
28 and Unit 3075 enabled Defendants DLEE, VLEE, and LLC to deprive their neighbors and other

1 residents of the notice and an opportunity to be heard that the Planning Code affords as part of that
2 process. Planning Code § 306.

3 59. In 2009 and 2010, Defendants advertised Units 3073 and 3075 as tourist rentals on
4 travel-related websites such as www.VRBO.com and www.Homeaway.com. Between 2009 and 2010,
5 the San Francisco Planning Department cited and informed Defendants DLEE, VLEE and LLC that
6 their use of Units 3073 and 3075 as a tourist hotel without Conditional Use authorizations was a
7 violation of Planning Code Sections 209.1, 209.2, 303, 306, and 317.

8 ENFORCEMENT HISTORY

9 FIRST NOTICE (Planning Department Enforcement Notification– September 4, 2009)

10 60. On September 4, 2009, the Planning Department issued an Enforcement Notification
11 (“EN”). The EN advised Defendants DLEE, VLEE and LLC that the Planning Department had
12 received a complaint that Units 3073 and 3075 were being used for short-term nightly or weekly
13 vacation rental purposes.

14 61. In investigating the complaint, the Planning Department found that Units 3073 and
15 3075 were being advertised on the website VRBO.com (otherwise known as Vacation Rentals by
16 Owner), for rent for a minimum of two nights for eight to ten guests, in violation of the Planning
17 Code.

18 62. The EN stated that the Property was located in an RH-3 Zoning District and currently
19 authorized only for residential use. The EN further stated that Planning Code Section 209.2(e) does
20 not allow a tourist hotel with six or more guest rooms offered for compensation and primarily for the
21 accommodation of transient overnight guests. The EN further stated that a tourist hotel with no more
22 than five guest rooms might be permitted with a Conditional Use authorization.

23 63. The EN demanded that Defendants DLEE, VLEE and LLC immediately discontinue
24 the short-term vacation rental use, cease advertising Units 3073 and 3075 as short-term vacation
25 rentals through the internet, newspapers or other means, and return the Property to its authorized long-
26 term residential dwelling use.

27 64. The EN gave Defendants DLEE, VLEE and LLC fifteen days to contact the Planning
28 Department and submit adequate evidence of compliance actions taken to abate the violation and

1 schedule a site visit to verify the use of the Property. A true and correct copy of the EN is attached
2 hereto as Exhibit C, and incorporated herein as part of this Complaint.

3
4 **SECOND NOTICE – (Planning Department Notice of Violation and Penalty –
November 10, 2009**

5 65. On November 10, 2009, the Planning Department issued a Notice of Violation and
6 Penalty (“NOVP”). The NOVP advised that the Planning Department had not received any response
7 to its September 4, 2009 EN, which required a response by September 22, 2009.

8 66. The NOV gave Defendants DLEE, VLEE, and LLC an additional 15 days to November
9 25, 2009 to correct the violation or appeal, but advised that administrative penalties of \$250 per day
10 would be assessed for each day the violation continues unabated.

11 67. A true and correct copy of the NOVP is attached hereto as Exhibit D, and incorporated
12 herein as part of this Complaint.

13 **DEFENDANTS DENIED VIOLATIONS AND REQUESTED HEARING**

14 68. On February 5, 2010, Defendants DLEE and VLEE challenged the San Francisco
15 Planning Department’s determination that Units 3073 and 3075 were being used for short-term rentals,
16 and filed two Requests for a Zoning Administrator Hearing (“Requests for Hearing”). In her Requests
17 for Hearing, Defendant VLEE stated under penalty of perjury that Unit 3073 and Unit 3075 “[were]
18 not, and [are] not rented as primarily short-term, but [are] rented with a 33 days & longer rental lease
19 contract with rents.”

20 69. To her Requests for Hearing, Defendant VLEE attached copies of several residential
21 rental agreements (leases), showing that Unit 3073 and Unit 3075 were being rented for terms of 32
22 days or more.

23 70. The leases pertaining to Unit 3073 showed that it was rented to long-term tenants for
24 the following periods: from December 10, 2009 to January 15, 2010, for \$8,446 for the term; from
25 December 1, 2009 to March 31, 2010 for \$4,200 per month; and from February 1, 2010 to April 30,
26 2010 for \$5,000 per month.

27 71. The leases submitted by Defendant VLEE effectively admitted that notwithstanding the
28 Ellis Act rental cap restrictions that were still in effect at the time, Defendants DLEE, VLEE and LLC

1 were re-renting Unit 3073, charging their new tenants rents between \$4,200 and \$7,038 per month-
2 four to seven times the amount allowed by law.

3 72. By unlawfully re-renting Unit 3073 during the first five years after taking the Property
4 off the rental market, at rental amounts four to seven times greater than that allowed by law,
5 Defendants DLEE, VLEE, and LLC engaged in unfair and unlawful business practices in violation of
6 California Business and Professions Code Sections 17200-17210.

7 73. The Planning Department accepted Defendant VLEE's representation that Unit 3073
8 and Unit 3075 were no longer being rented for short-term rentals and treated the violation as abated,
9 pending payment of outstanding administrative penalties.

10 **THIRD NOTICE (Planning Department Notice of Penalties – May 7, 2010)**

11 74. On May 7, 2010, the Planning Department issued a Notice of Penalties ("Notice of
12 Penalties") for the unpaid administrative penalties still owing from the 2009 enforcement. The Notice
13 of Penalties advised that Defendants DLEE, VLEE and LLC still owed administrative penalties of
14 \$250 per day for the 33-day period between November 11, 2009 and December 13, 2009. A true and
15 correct copy of the Notice of Penalties is attached hereto as Exhibit E, and incorporated herein as part
16 of this Complaint.

17 75. Defendants DLEE and VLEE ultimately paid the outstanding administrative penalties
18 for their 2009 short-term rentals of Unit 3073 and Unit 3075 in violation of the San Francisco Planning
19 Code.

20 **NEW COMPLAINTS OF TOURIST USE - 2013**

21 In 2013, the Planning Department learned that Defendants DLEE, VLEE and LLC had again
22 illegally converted Unit 3075 from residential use to tourist hotel use and were operating a tourist
23 hotel without the required Conditional Use authorization, by again advertising Unit 3075 for short-
24 term tourist rentals on travel websites such as www.VRBO.com and www.Homeaway.com. In these
25 online advertisements, Defendants DLEE, VLEE and LLC listed Unit 3075 as available for rent for
26 \$395-\$595 per night, for a minimum stay of 3 nights, describing it as an "exquisitely renovated home,
27 in prime Pacific Heights," which sleeps 12 and includes 4 bedrooms and 3 bathrooms. Below is a true
28 and correct copy of a screenshot of the advertisements of Unit 3075 on VRBO.com from April 2014.

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VRBO
Rental Guarantee | Advantages | Community | Luxury | Help
Traveler login | Owner login | List your property

Search for: Destination, keywords, property id
Arrival
Departure
Search

Home
USA
California
San Francisco Bay Area
San Francisco
Pacific Heights
VRBO Listing #379454

395/nt Special! Exquisitely Renovated Home, Prime of Pac Heights!



Overview
Reviews
Rates
Calendar
Location
Owner Info
Photos

Minimum stay:	3 nights	Pets considered:	Yes
Internet:	Yes	Wheel chair accessible:	No

Pacific Heights condo description

This beautiful brand new home is centrally located in the highly desirable location—Pacific Heights—one of the best neighborhoods in San Francisco. And this beautiful home is known for beauty, safety, convenience, restaurants and shops.

This spacious 4 bedrooms, 3 bathrooms is perfect for family, as it is several blocks from the library with an impeccable children's book collection and the Alta Plaza Park.

This exquisitely renovated home on a prime block of Pacific Heights and on a fabulous tree lined street, and it is a detached flat with customized remodel with state of the art finishes: hardwood floors, granite counter tops with customize kitchen cabinetry and new Viking stove.

Save to my favorites

\$395 - \$595
per night (USD)

★★★★★ 5

4 Bedroom / 3 Bathroom
Sleeps 12

Contact owner for availability

Minimum stay: 3 nights

Arrival
Departure

Get an instant quote

Email owner

Show Phone Number

Speaks: english

25 76. Plaintiffs are informed and believe that at least since May 2013, Defendants have
 26 rented Unit 3075 on a short-term basis to numerous tourists, business travelers, groups, leisure
 27 travelers, and other visitors to San Francisco. Short-term renters have posted numerous reviews to the
 28 websites advertising Defendants' illegal tourist hotel, including the following examples:

1 ★★★★★ Beautiful Home in excellent location

2 Guest Amanda (Tucson, AZ)

3 Date of stay 09/30/13 Review Submitted 10/11/13

4 We could not have picked a better place for our 4 nights stay in San Francisco.

5 The house was very clean and tastefully decorated.

6 The beds were way more comfy than any hotel, and the linens are very beautiful.

7 The kitchen was well supplied with everything we needed. Very high-end Viking appliances. Beautiful kitchen cabinets.

8 This apartment was situated in a great location close to public transportation, park, restaurants, and stores. We enjoyed taking a walk in the neighborhood in the morning-- very quiet, safe, and clean neighborhood.

9 This is definitely a home-away-from home, and it will be our first choice for our next trip to San Francisco.

10 We will recommend this home to who want to spend a nice and relax vacation in San Francisco.

11 Thank you for sharing this beautiful place for people to rent, it's absolutely gorgeous!

12 **Recommended for:** Romantic getaway, families with teenagers, girls getaway, sightseeing, tourists without a car, adventure seekers, families with young children, age 55+.

13 **Owner response:** Dear Amanda, Thank you very much for the kind words. We are very appreciated it. Thank you very much for choosing our home for your stay in San Francisco. We are very glad that you enjoyed your stay. Look forward to host you again in the near future.

14 ★★★★★ Wonderful Stay

15 Guest Kara (New York)

16 Date of stay 08/08/13 Review Submitted 10/11/13

17 My family and I had a wonderful stay in this beautiful Pacific Heights home.

18 You won't be disappointed. You'll really appreciate the beauty of the house, the location, cleanliness, amenities, convenience, etc.

19 This beautiful home is very spacious. The furniture and beds are very nice and comfortable.

20 The master suite is very huge with a very nicely design bathroom. I am especially in love with the well-equipped kitchen. It's extremely nice with designer cabinets and high-end stainless steel appliances. I really enjoyed cooking meals in this beautiful kitchen.

21 The neighborhood is very nice, clean, quiet and safe. We like to take a walk with the kids to the Alta Plaza Park after dinner to enjoy the neighborhood.

22 We look forward to our next holiday to San Francisco and will definitely stay here again.

23 Thank you so much for the wonderful hospitality.

24 **Recommended for:** Romantic getaway, families with teenagers, girls getaway, sightseeing, people with disabilities, tourists without a car, adventure seekers, families with young children, age 55+.

25 **Owner response:** Dear Kara, Thank you so much for the wonderful review. We are very glad that you enjoyed your stay. Our design team spent extra effort to make this home beautiful and comfortable. We will deliver your wonderful words to our design teams as well. Thank you for the recommendation. Please come back to visit us again!

1
2 **★★★★★ The Perfect San Francisco Home**

3 Guest Ana (LA)

4 Date of stay 03/01/13 Review Submitted 04/03/13

5 Loved the home and it was spotless, comfortable and beautiful. The neighborhood is quiet and all
6 amenities are within walking distance (restaurants, shops, bus lines and parks). The Viking kitchen
7 was fantastic and we decided to cook more meals in the home rather than eat out because we
8 enjoyed so much. Internet, wifi, and Cable TV worked well. All the bedrooms were spacious and the
9 beds were comfy. We have now used VRBO couple times, we loved all the places but this one was
10 the best regard to finish and quality. I would highly recommend this home to all my friends and
11 family that are traveling to San Francisco.

12 **Recommended for:** Romantic getaway, families with teenagers, girls getaway, sightseeing, people
13 with disabilities, tourists without a car, adventure seekers, families with young children, age 55+.

14 **Owner response:** Dear Ana, Thank you very much for the wonderful comment. It's our honor to
15 host you and your group. Please come back to visit us again.

16 **★★★★★ Fantastic home**

17 Guest Jonathan (NYC)

18 Date of stay 03/10/13 Review Submitted 03/29/13

19 Absolutely excellent in every way. The home was beautifully furnished, ideally situated, and
20 incredibly quite. It was delighted to find that it was exactly as depicted in the photographs. Beautiful
21 kitchen with Viking appliances. It had an outside deck and backyard, which was perfect for hanging
22 out and just enjoying a bit of peace from the city. Convenient location, lots of terrific restaurants.
23 This rental was a great value and a very nice place to stay. I'd definitely recommend these
24 accommodations.

25 **Recommended for:** Romantic getaway, families with teenagers, girls getaway, sightseeing, people
26 with disabilities, tourists without a car, adventure seekers, families with young children, age 55+.

27 **Owner response:** Dear Jonathan, Thank you very much for the excellent review. We are very
28 glad that you enjoyed your stay and the neighborhood. The Viking appliances are very expensive
and high quality. Glad that you enjoyed your cooking there. Look forward your next visit to San
Francisco!

29 **FOURTH NOTICE (Planning Department 2013 Notice of Penalty – June 21, 2013)**

30 77. On May 21, 2013, the Planning Department received a new complaint alleging that
31 since March 2013, Defendants had resumed using Unit 3075 as a tourist hotel use without Conditional
32 Use authorization, in violation of the Planning Code. On the same date, the Planning Department sent
33 a courtesy "Notice of Complaint" to Defendants DLEE, VLEE and LLC.

34 78. On May 24, 2013, the Planning Department received a telephone call from Defendants
35 DLEE, VLEE, and LLC's agent, falsely denying the short-term tourist hotel use, and informing the
36 Planning Department that the Property was now being used only as a long-term residential dwelling

1 unit. The Planning Department advised Defendants' agent to provide evidence to substantiate the use.
2 No such evidence was provided at the time.

3 79. The Planning Department obtained evidence that Unit 3075 was again being used as a
4 short-term vacation rental for tourist use, including, but not limited to:

- 5 • an email chain, dated March 16-18, between a prospective short-term renter and
6 Defendants' agent, identifying herself as the "property manager," who coordinates
7 renting Unit 3075 (VRBO #378454) for four nights, from April 17-21, 2013 at \$425 per
8 night.
- 9 • an email chain dated March 11-18, 2013, between a prospective short-term renter and
10 Defendants' agent. Defendants' agent identifies herself as the "property manager," and
11 coordinates renting Unit 3075 (VRBO #378454) for six nights, from May 17, 2013 to
12 May 23, 2013, at \$495 per night. Defendants' agent provides the renter with the rental
13 agreement and requests the renter to review, complete and sign lease and fax back to
14 her at 415-701-0212 - a fax number also linked to Defendant DLEE's construction
15 company, D3 Construction, LLC. Defendants' agent provides the lock box's entry
16 code, and specifies that it is for 3075 Clay Street. Defendants' agent instructs the short-
17 term renter that should anyone from the City ask, the renter should lie and say that their
18 stay is long-term, for a month and a half.

19 80. Defendants continued their unlawful use of Unit 3075 as a tourist hotel throughout
20 2013, including, but not limited to, the following short-term rentals: April 17-21, May 16-23 (10
21 people from Florida); May 30 to June 2 (12 women for bachelorette party); June 3-6 (10 people for
22 corporate retreat); June 8-12 (10 members of a family for a reunion); June 17-20 (10 members of a
23 family from all over to spread their father's ashes); and June 20-24 (a family with a baby).

24 81. On June 21, 2013, the Planning Department issued a Notice of Penalty ("2013 Notice
25 of Penalty"). The 2013 Notice of Penalty advised that Defendants were again in violation of the
26 Planning Code by using Unit 3075 as a tourist hotel without Conditional Use Authorization. The 2013
27 Notice of Penalty further advised that administrative penalties of \$250 per day had been assessed for
28 the 32 days between May 21, 2013 and June 21, 2013, resulting in an administrative penalty of \$8,000.

1 The 2013 Notice of Penalty further advised that the penalties would continue to accrue until corrective
2 actions were taken to abate the violation. The 2013 Notice of Penalty further advised that a \$1,179 fee
3 for "Time and Materials" was also due and owing. A true and correct copy of the 2013 Notice of
4 Penalty is attached hereto as Exhibit F and incorporated herein as part of this Complaint.

5 82. Defendants did not pay the penalties or abate the violation.

6 83. On or about June 21, 2013, Defendants' agent sent an email to the Planning Department
7 falsely stating that Unit 3075 was being properly used as a residential dwelling unit, and stating that
8 Unit 3075 was being occupied by a long-term resident, namely Defendant CHEN. Defendants' agent
9 provided the Planning Department with Defendant CHEN's phone number.

10 84. On or about July 1, 2013, Defendants' agent provided the Planning Department with a
11 notarized Affidavit of Tenant, signed by Defendant CHEN, falsely attesting that he was a long-term
12 residential tenant at the Property. The affidavit falsely states that Defendant CHEN's tenancy began
13 March 2013 and would continue to February 28, 2014, and that he was paying rent of \$6,000 per
14 month. Plaintiffs are informed and believe that Defendant CHEN knowingly falsified the affidavit for
15 purposes of concealing Defendant DLEE, VLEE, and LLC's prior violations and aiding and abetting
16 their continuing violations of the San Francisco Planning Code. A true and correct copy of the
17 Affidavit of Tenant is attached hereto as Exhibit G and incorporated as part of this Complaint.

18 85. Defendants' creation and submission of the false affidavit to the Planning Department
19 was intended to avoid assessment of administrative Planning Code penalties for the relevant period.

20 86. In and around July to August 2013, the Planning Department further investigated and
21 determined that contrary to Defendants' representations, Defendants were still using Unit 3075 as a
22 short-term vacation rental for tourists, in violation of the Planning Code. In 2013, Defendants rented
23 Unit 3075 on a short-term basis on at least the following dates: June 28-July 1; July 15-16; August
24 10-13; August 15-22; August 23-26; September 1-30 (America's Cup); October 4-7; Oct 7-11;
25 October 16-25; October 29-November 6; November 8-13; November 17-25, December 5-17, and
26 December 21-31.

1 **FIFTH NOTICE (Planning Department – Reminder Notice of Penalty – August 8, 2013)**

2 87. On August 8, 2013, the Planning Department issued a Reminder Notice of Penalty
3 (“Reminder Notice”), advising Defendants that they were still being assessed an administrative penalty
4 of \$250 per day since May 21, 2013, and that they now owed \$19,750 in administrative penalties.

5 88. Defendants neither paid the penalties nor abated the violation. A true and correct copy
6 of the Reminder Notice is attached hereto as Exhibit H and incorporated herein as part of this
7 Complaint.

8 **SIXTH NOTICE (Planning Department Final Notice of Penalty – October 16, 2013)**

9 89. On October 16, 2013, the Planning Department issued a Final Notice of Penalty (“Final
10 Notice”), advising Defendants that they were still being assessed an administrative penalty of \$250 per
11 day since May 21, 2013, and as of that date, they owed \$37,000 in administrative penalties, as well as
12 a fee of \$2,062.48 for Time and Materials. A true and correct copy of the Final Notice is attached
13 hereto as Exhibit I and incorporated herein as part of this Complaint.

14 90. Defendants did not pay the penalties or abate the violation.

15 91. Since May 2013, the San Francisco Planning Department has repeatedly cited and
16 informed Defendants DLEE, VLEE and LLC that using Unit 3075 as a tourist hotel is illegal without a
17 Conditional Use authorization, and that administrative penalties of \$250 per day were again being
18 assessed against them under Planning Code Section 176, for their continuing violation of Planning
19 Code Sections 209.2, 303, 306, and 317.

20 92. As outlined above, Defendants DLEE, VLEE, and LLC have failed, and continue to
21 fail, to comply with the various notices issued by the Planning Department, including, but not limited
22 to, the EN issued on September 4, 2009, the NOVP issued on November 10, 2009, the 2013 Notice of
23 Penalty issued on June 21, 2013, the Reminder Notice of Penalty issued on August 8, 2013, and the
24 Final Notice of Penalty issued on October 16, 2013.

25 93. Despite the repeated notices, citations, warnings, and administrative penalties issued by
26 the Planning Department, Defendants have continued to use Unit 3075 as tourist hotel in violation of
27 the San Francisco Planning Code.

1 94. Pursuant to Planning Code Section 176, the Planning Department has continued
2 assessing an administrative penalty of \$250 per day against Defendants.

3 95. At the time of trial, Plaintiffs will move the Court to supplement this Complaint to
4 include any conditions discovered after the filing of this Complaint.

5 **FIRST CAUSE OF ACTION**
6 **FOR VIOLATION OF SAN FRANCISCO PLANNING CODE BY**
7 **PLAINTIFFS CITY AND COUNTY OF SAN FRANCISCO AGAINST**
8 **DEFENDANTS DLEE, VLEE, and LLC**

9 96. SAN FRANCISCO hereby incorporates by reference all preceding paragraphs of this
10 Complaint and makes them a part of this First Cause of Action, as though fully set forth herein.

11 97. SAN FRANCISCO brings this action pursuant to San Francisco Planning Code Section
12 176(b)(2).

13 98. Defendants are now, and for a considerable period of time have been, maintaining, or
14 aiding and abetting in the maintenance of, the Property in violation of Planning Code Sections 209,
15 303, 306 and 317. Pursuant to Planning Code Section 176, any use, structure, lot, feature or condition
16 in violation of the Planning Code is unlawful and a public nuisance.

17 99. Defendants unlawfully converted the Property from its legal use as a residential
18 dwelling unit to a tourist hotel in an RH-3 zoned district, which is unlawful under the Planning Code
19 without Conditional Use authorization.

20 100. At all times herein mentioned, all Defendants have had notice and knowledge that Unit
21 3075 was being operated in violation of the Planning Code, but Defendants deliberately failed and
22 refused to abate the violations.

23 101. SAN FRANCISCO has no adequate remedy at law in that damages are insufficient o
24 protect the public from the harm caused by the conditions described herein.

25 102. Unless said violation is abated, the other occupants, neighbors, and residents of SAN
26 FRANCISCO will suffer irreparable injury and damage, in that said conditions will continue to be
27 injurious to the continuous enjoyment of life and the free use of property of said residents.

28 103. By using the Property as described herein, Defendants DLEE, VLEE, and LLC have
violated, disobeyed, omitted, neglected, and refused to comply with the San Francisco Planning Code

1 and should be enjoined as contemplated by San Francisco Planning Code Section 176(b)(2), and
2 ordered to pay mandatory civil penalties of no less than \$200 per day for each day that the violations
3 existed and were permitted to continue, as set forth in San Francisco Planning Code Section 176(c)(2).

4 **SECOND CAUSE OF ACTION**

5 **FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES BROUGHT BY PLAINTIFF**
6 **PEOPLE OF THE STATE OF CALIFORNIA AGAINST ALL DEFENDANTS**
7 **(California Business and Professions Code §§ 17200-17210)**

8 104. The PEOPLE hereby incorporate by reference all preceding paragraphs of this
9 Complaint and make them part of this Second Cause of Action, as though fully set forth herein.

10 105. City Attorney Dennis J. Herrera, acting to protect the public as consumers and
11 competitors from unlawful, unfair, and fraudulent practices, brings this cause of action in the public
12 interest in the name of the PEOPLE of the State of California, pursuant to Business and Professions
13 Code Section 17200-17209.

14 106. The violations of law described herein, including the illegal conversion of a residential
15 dwelling unit to a tourist hotel without the required Conditional Use authorization. By not obtaining
16 the required Conditional Use authorization, Defendants have unlawfully and unfairly deprived
17 Plaintiff SAN FRANCISCO of the ability to make the determinations it ordinarily makes when
18 evaluating a Conditional Use application, including: whether the conversion would have a detrimental
19 effect on the City's housing stock, whether the conversion was necessary or desirable, and/or
20 compatible with the neighborhood or community; and whether the new use would comply with the
21 applicable provisions of the Planning Code, and conform to the Planning Department's General Plan.

22 107. By not obtaining the required Conditional Use authorization, Defendants have
23 unlawfully and unfairly deprived the neighbors and other residents of SAN FRANCISCO of the notice
24 and opportunity to be heard ordinarily provided as part of the Conditional Use process.

25 108. The violations of law described herein have been and are being carried out wholly, or in
26 part, within the City and County of San Francisco.

27 109. The actions of Defendants are in violation of the laws and public policies of SAN
28 FRANCISCO and the State of California, and are inimical to the rights and interest of the general

1 public. Unless enjoined and restrained by an order of this Court, Defendants will continue to engage
2 in the unlawful and unfair acts and courses of conduct described herein.

3 110. Through the conduct described above, Defendants have engaged , or aided and abetted
4 in the following unlawful and unfair business practices prohibited by California Business and
5 Professions Code Sections 17200-17209:

- 6 • Unlawfully renting Unit 3073 for rental amounts in excess the maximum allowed
7 by law, in violation of Government Code Sections 7060.2(a) and (d), and San
8 Francisco Administrative Code Sections 37.9A(a) and (b);
- 9 • Unlawfully converting Unit 3075 Clay from a residential dwelling unit to a tourist
10 hotel without Conditional Use authorization, in violation of San Francisco Planning
11 Code Section 209;
- 12 • Unlawfully converting Unit 3075 Clay from a residential dwelling unit to a tourist
13 hotel without Conditional Use authorization, in violation of San Francisco Planning
14 Code Section 303;
- 15 • Unlawfully converting Unit 3075 Clay from a residential dwelling unit to a tourist
16 hotel without Conditional Use authorization, in violation of San Francisco Planning
17 Code Section 306;
- 18 • Unlawfully converting Unit 3075 Clay from a residential dwelling unit to a tourist
19 hotel without Conditional Use authorization, in violation of San Francisco Planning
20 Code Section 317;
- 21 • Refusing to comply with numerous Notices and Orders issued by the San Francisco
22 Planning Department;
- 23 • Refusing to pay the San Francisco Planning Department administrative penalties
24 assessed under San Francisco Planning Code Section 176;
- 25 • Suborning perjury and providing false information to the San Francisco Planning
26 Department in an attempt to conceal the true use of the Property; and
- 27 • Encouraging their short-term vacation renters to provide false information to
28 conceal the true use of the Property.

1 evidence to substantiate the use and advised that without such evidence Defendants would face new
2 sanctions, including administrative penalties of \$250 per day. No such evidence was provided at the
3 time.

4 119. On June 21, 2013, the San Francisco Planning Department issued a Notice of Penalty,
5 advising Defendants that they were again in violation of the Planning Code by using Unit 3075 as a
6 tourist hotel without Conditional Use Authorization. The Notice of Penalty further advised that
7 administrative penalties of \$250 per day had been assessed for the 32 days between May 21, 2013 and
8 June 21, 2013, resulting in an administrative penalty of \$8,000. The Notice of Penalty further advised
9 that the penalties would continue to accrue until corrective actions were taken to abate the violation.

10 120. On or about June 21, 2013, Defendant's agent sent an email to the Planning Department
11 denying that Unit 3075 was being used for short-term rentals, and falsely stating that it was now
12 occupied by a long-term resident named JEFFERSON CHEN. Defendant's agent provided the
13 Planning Department with Defendant CHEN's phone number.

14 121. On or about July 1, 2013, the Planning Department received a notarized Affidavit of
15 Tenant, signed by Defendant CHEN, falsely attesting that he was a long-term residential tenant at the
16 Property. The affidavit falsely states that Defendant CHEN's tenancy began March 2013 and would
17 continue to February 28, 2014, and that Unit 3075 was therefore being operated as a residential
18 dwelling unit in compliance with the Planning Code. As detailed in the preceding paragraphs, Unit
19 3075, was in fact operated as a tourist hotel throughout 2013, in violation of the Planning Code.

20 122. As a result of submitting the false affidavit to the San Francisco Planning
21 Department, Defendants DLEE, VLEE, and LLC avoided paying administrative penalties in excess of
22 \$500 for violating the Planning Code, avoided further administrative sanctions and hearings, and were
23 able to continue operating the dwelling unit at 3075 Clay as an illegal tourist hotel in violation of the
24 Planning Code. Defendant CHEN was responsible for and aided and abetted in the creation and
25 submission of the false statement by executing and signing the notarized Affidavit of Tenant
26 containing his perjured statement.

27 123. By falsely stating to Planning that the dwelling unit at 3075 Clay was being used as a
28 residential dwelling unit, when it was actually being used as tourist hotel, in order to avoid

1 administrative penalties, Defendants DLEE, VLEE, LLC, and CHEN violated California Government
2 Code Section 12651(a)(7).

3 **PRAYER**

4 WHEREFORE, Plaintiffs pray that:

5 1. Defendants be declared to have violated the San Francisco Planning Code and
6 California Business and Professions Code Sections 17200-17209;

7 2. The Court issue a permanent injunction, ordering Defendants to permanently abate all
8 code violations and unlawful or unfair business practices on the Property at 3073-3075 Clay Street,
9 San Francisco, California, in accordance with the San Francisco Municipal Code and the California
10 Business and Professions Code;

11 3. Defendants, and each of them, their agents, officers, managers, representatives,
12 employees, and anyone acting on their behalf, and their heirs and assignees, be preliminarily and
13 permanently enjoined from maintaining, operating, conducting, using, occupying, or in any way
14 permitting the use of the Property and structures at 3073-3075 Clay Street, San Francisco, California,
15 until the Property, and all parts thereof, conform to law;

16 4. Defendants, and each of them, their agents, officers, managers, representatives,
17 employees, and anyone acting on their behalf, and their heirs and assignees, be preliminarily and
18 permanently enjoined from maintaining, operating, conducting, using, occupying, or in any way
19 permitting the use of the Property and structures at 3073-3075 Clay Street, San Francisco, California,
20 as an unfair and/or unlawful business practice in violation of California Business and Professions
21 Code Sections 17200-17209.

22 5. Defendants, and each of them, their agents, officers, managers, representatives,
23 employees, and anyone acting on their behalf, and their heirs and assignees, be ordered to cause the
24 Property and all parts thereof, to conform to law, and to maintain it in such conformity at all times;

25 6. Pursuant to San Francisco Planning Code Section 176(c)(2), Defendants DLEE, VLEE,
26 and LLC, and each of them, be ordered to pay a civil penalty of no less than \$200 for each day that the
27 Planning Code violations alleged in the Complaint were permitted to occur;

28

1 7. Pursuant to San Francisco Planning Code Section 176(c)(1), Defendants DLEE, VLEE,
2 and LLC, and each of them, be ordered to pay the San Francisco Planning Department all outstanding
3 administrative penalties assessed at \$250 for each day that the Planning Code violations alleged in the
4 Complaint were permitted to occur.

5 8. Pursuant to Business and Professions Code Section 17206, Defendants, and each of
6 them, be ordered to pay a civil penalty of \$2,500 for each unfair and/or unlawful business act alleged
7 in this Complaint;

8 9. Pursuant to Business and Professions Code Section 17203, Defendants, and each of
9 them, be ordered to disgorge all profits, and make restitution of any money or property, real or
10 personal, obtained through their unfair and/or unlawful business acts and practices;

11 10. Pursuant to Government Code Section 12651(a), Defendants, and each of them, be
12 ordered to pay three times the amount of damages that SAN FRANCISCO sustained because of their
13 false claims;

14 11. Pursuant to Government Code Section 12651(a), Defendants, and each of them, be
15 ordered to pay civil penalties of between \$5,500 and \$11,000 for each violation of the False Claims
16 Act;

17 12. Pursuant to Government Code Section 12651(a), Defendants, and each of them, be
18 ordered to pay the costs of this civil action;

19 13. Defendants, and each of them, be preliminarily and permanently enjoined from
20 spending, transferring, encumbering, or removing from California any real or personal property or
21 money received from the Property or in payment for the unfair and unlawful acts alleged in this
22 Complaint;

23 14. Plaintiffs be authorized to have a lien upon the Property in the amount expended
24 pursuant to said authority and to have judgment in said amount against said Defendants, and their
25 successors and assigns.

26 15. Plaintiffs be authorized to record an Abstract of Judgment that constitutes a prior lien
27 over any lien that any Defendants in this case may hold on the Property;

INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Property Description
B	Notice of Constraints on Real Property – Recorded January 11, 2006
C	Enforcement Notification – September 4, 2009
D	Notice of Violation and Penalty – November 10, 2009
E	Notice of Penalties – May 7, 2010
F	Notice of Penalty – June 21, 2013
G	Affidavit of Tenant – June 28, 2013
H	Reminder Notice of Penalty – August 8, 2013
I	Final Notice of Penalty – October 16, 2013

EXHIBIT A

3073-3075 Clay Street
Blk 1005 Lot 022

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

COMMENCING at a point on the Southerly line of Clay Street, distant thereon 110 feet Easterly from the Easterly line of Baker Street; running thence Easterly along said line of Clay Street 27 feet and 6 inches; thence at a right angle Southerly 87 feet and 8-1/4 inches to the point of commencement.

BEING a portion of WESTERN ADDITION BLOCK NO. 542

RECORDING REQUESTED

City and County of San Francisco
Residential Rent Stabilization & Arbitration Board
25 Van Ness Avenue, Suite 320
San Francisco, CA 94102
(415) 252-4602



San Francisco Assessor-Recorder
Phil Ting, Assessor-Recorder
DOC- 2006-I111017-00
Acct 37-Rent Arbitration Board
Wednesday, JAN 11, 2006 13:59:57
Ttl Pd \$0.00 Nbr-0002921224
REEL J054 IMAGE 0992
abd/FT/1-2

WHEN RECORDED MAIL TO:

City and County of San Francisco
Residential Rent Stabilization & Arbitration Board
25 Van Ness Avenue, Suite 320
San Francisco, CA 94102
(415) 252-4602

NOTICE OF CONSTRAINTS ON REAL PROPERTY

(to be recorded by the Rent Board)

Pursuant to Government Code Section 7060.2 and San Francisco Administrative Code Chapter 37, Section 37.9A, the City of San Francisco has determined to apply constraints to successors in interest to an owner(s) who has withdrawn residential accommodations from rent or lease.

The real property where the accommodations are located is specifically described as:

Block: 1005 Lot: 22
Address: 3073-3075 Clay Street, San Francisco, CA 94115
(See Attachment A for legal description of property.)

Name of Owner(s): Darren Lee and Valerie H. Lee

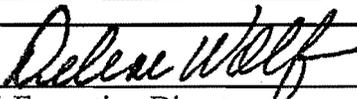
The date on which the accommodations at 3073 Clay Street are to be withdrawn from rent or lease is August 25, 2006.

The constraints set forth in the following sections apply to the units until the dates indicated:

- Government Code Section 7060.2(a)&(d) and San Francisco Administrative Code Section 37.9A(a)&(b):
August 25, 2011. (Five years from date of withdrawal)
- Government Code Section 7060.2(c) and San Francisco Administrative Code Section 37.9A(c):
August 25, 2016. (Ten years from date of withdrawal)

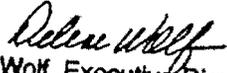
ALL OF THE TERMS AND OBLIGATIONS AS NAMED IN THIS DOCUMENT WILL TERMINATE AUTOMATICALLY, WITHOUT THE NECESSITY OF ANY RECORDED TERMINATION, AFTER AUGUST 25, 2016.

Dated: December ²⁷~~26~~, 2005



Delene Wolf, Executive Director,
San Francisco Rent Board

This is a true and certified copy of the original which is on file with the Residential Rent Stabilization and Arbitration Board of the City and County of San Francisco
FORM 7


Delene Wolf, Executive Director
Date: 3/5/14



SAN FRANCISCO PLANNING DEPARTMENT

ENFORCEMENT NOTIFICATION Planning Code Section 176

September 4, 2009

Darren Lee
3073-3075 Clay Street LLC
1927 Lyon St.
San Francisco, CA 94115

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RE: Violation of Planning Code Section: 209.1(d) for Short-Term Vacation Rental Use for Transient Guests without Authorization

Complaint Identification Number: 10240

Site Address: 3073-3075 Clay St.

Assessor's Block/Lots: 1005/022

Zoning District: RH-3, Residential, House Districts, Three-Family

Staff Contact: Rachna, (415) 575-6806 or rachna.rachna@sfgov.org

Dear Mr. Lee:

The Planning Department has received a complaint that your above referenced property is being used in violation of Planning Code. As the owner or leaseholder of the subject property, you are a responsible party. The details of case investigation are discussed as below:

DESCRIPTION OF VIOLATION

The complaint alleges that both dwelling units at the subject property are being used for short-term nightly or weekly vacation rental purposes. It has been reported that at any given time there are ten or more guests in each dwelling unit. A concern has been expressed in regards to the safety and character of neighborhood and resulting noise and parking problems from the transient overnight guests, overcrowding, and frequent parties at the subject property.

The complaint is confirmed from the search on internet where the subject property is advertised on the website VRBO.com for vacation rental purposes. According to this website, both dwelling units are available for minimum 'two nights' rental for eight to ten guests respectively. The rental of residential dwelling units in this manner constitutes a violation of Planning Code.

The purpose of this notice to inform you about the applicable Planning Code regulations in regards to the authorized use of the subject residential property so you can take appropriate action to bring your property in compliance with Planning Code. The subject property is located in RH-3 Zoning District and

Darren Lee
September 4, 2009

Enforcement Notification
3073-3075 Clay, Complaint No. 10240

is currently authorized for a long-term residential use as two dwelling units pursuant to our records. The Planning Code Section 209.2(e) does not permit a tourist hotel or inn use with six or more rooms, which are offered for compensation and primarily for the accommodation of transient overnight guests. However, pursuant to Code Section 209.2(d), a tourist hotel or inn use with no more than five guest rooms may be permitted with a Conditional Use authorization. Currently, the subject property does not have such authorization.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation shall be complied with in the use of land and structures to the effect that the existing lawful use or proposed use of a structure or land conforms to the provisions of Planning Code. Failure to comply with any provisions of Planning Code constitutes a violation of Planning Code under Code Section 176.

HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately discontinue the short-term vacation rental use from the subject property and return the property to its authorized long term two-family dwelling unit use. The advertising of the subject property as a vacation rental through Internet, newspapers, or any other means must also be stopped. If you intend to use the above property as a short-term vacation rental or inn use with no more than five guest rooms, you may file a Conditional Use Application for such change of use. Please note that such authorization is subject to Planning Commission public hearing and approval process. The Planning Department requires that prior to filing a Conditional Use application for a short term rental or inn use; you must return the property to authorized use. Non-compliance with any Planning Code regulations may affect the Planning Department's recommendation on the Conditional Use application to the Planning Commission. If the Conditional Use authorization is granted, you will also need to file a Building Permit Application to implement the change of use. You may download a Conditional Use application from the Planning Department's website at http://www.sfgov.org/site/planning_index.asp and get other information on the application process and associated fees.

You may also want to visit the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088 or 558-6570, website: www.sfgov.org/dbi, regarding any building permits that may be required to reinstate the subject property to its authorized use.

TIMELINE TO RESPOND

The responsible party has fifteen (15) days from the date of this notice to contact the enforcement planner noted at the top of this notice to submit adequate evidence on the compliance actions taken to abate the violation and schedule a site visit to verify the use of the subject property. The abatement actions shall be taken as early as possible. Any unreasonable delays in abatement of violation may result in further enforcement action by the Planning Department.

Darren Lee
September 4, 2009

Enforcement Notification
3073-3075 Clay, Complaint No. 10240

PENALTIES AND APPEAL RIGHTS

Failure to respond to this notice with evidence of correction of violation within 15 days and no later than September 22, 2009, 5PM may result in accrual of penalties and issuance of a Notice of Violation and Penalty by the Zoning Administrator. The administrative penalties of up to \$250 per day may be assessed to the responsible party for each day the violation continues unabated. The Notice of Violation and Penalty provides appeal processes, which include:

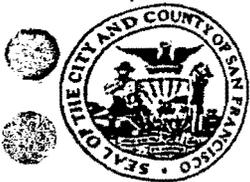
- 1) Request for Zoning Administrator's hearing,
- 2) Request for alternative review by Planning Director under Section 176.1, and
- 3) Appeal of notice and any assessed penalties to the Board of Appeals. The Board of Appeals may not reduce the amount of the penalty below \$100 per day for each day the violation exists, excluding the period of time when the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

Additionally, pursuant to Planning Code Section 350(c)(1), the Planning Department may charge for 'Time and Materials' spent on the investigation of enforcement complaints to recover the cost of correcting Planning Code violations and violations of any conditions of approval if such costs are not covered by any permit or application fees collected as part of the abatement of violations.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. We want to assist you in ensuring that the subject property is in full compliance with Planning Code. Therefore, any applications not related to the abatement of violation on the subject property will be placed on hold until further notice.

cc: Edward Sweeney, Deputy Director, Department of Building Inspection



SAN FRANCISCO PLANNING DEPARTMENT

NOTICE OF VIOLATION AND PENALTY Planning Code Section 176

November 10, 2009

Darren Lee
3073-3075 Clay Street LLC
1927 Lyon St.
San Francisco, CA 94115

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RE: Violation of Planning Code Section: 209.2(d): Other Housing (Short-Term Vacation Rental Use for Transient Guests without Authorization)

Complaint Identification Number: 10469

Site Address: 3075 Clay St.

Assessor's Block/Lots: 1005/022

Zoning District: RH-3, Residential, House Districts, Three-Family

Staff Contact: Adrian Putra, (415) 575-9079, Adrian.Putra@sfgov.org

Dear Sir and/or Madam:

On Sept 4, 2009, the Planning Department sent you an Enforcement Notification informing you about a complaint in regards to a violation of Planning Code at the above referenced property. You were required to respond to this notice by Sept. 22, 2009. To date, the Planning Department has not received any response from you. As the owner or leaseholder of the subject property, you are a responsible party for the violation. The purpose of this notice is to inform you about the applicable Planning Code regulations and penalties for using the subject property in violation of Planning Code so you can take appropriate action to bring your property in compliance with Planning Code. The details of case investigation are discussed below:

DESCRIPTION OF VIOLATION

According to the complaint, the dwelling unit at the subject property (3075 Clay) is being used for short-term nightly or weekly vacation rental purposes. It has been reported that at any given time there are ten or more guests in each dwelling unit. A concern has been expressed in regards to the safety and character of neighborhood and resulting noise and parking problems from the transient overnight guests, overcrowding, and frequent parties at the subject property.

The complaint is confirmed from the search on the internet where the subject property is advertised on the website VRBO.com for vacation rental purposes. According to this website, both dwelling units at the subject property are available for minimum 'two nights' rental for eight to ten guests respectively. The rental of residential dwelling units in this manner constitutes a violation of Planning Code.

3075 Clay Street
November 10, 2009

Notice of Violation and Penalty
Complaint Identification Number: 10469

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation shall be complied with in the use of land and structures to the effect that the existing lawful use or proposed use of a structure or land conforms to the provisions of Planning Code. Failure to comply with any provisions of Planning Code constitutes a violation of Planning Code under Code Section 176.

The subject property is located in RH-3 Zoning District and is currently authorized for a long-term residential use as two dwelling units pursuant to our records. As we informed you earlier, the Planning Code Section 209.2(e) does not permit a tourist hotel or inn use with six or more rooms, which are offered for compensation and primarily for the accommodation of transient overnight guests. However, pursuant to Code Section 209.2(d), a tourist hotel or inn use with no more than five guest rooms may be permitted with a Conditional Use authorization. Currently, the subject property does not have such authorization. Furthermore, Planning Code Section 317 requires a Mandatory Discretionary Review for the removal of legal dwelling units; however, no such review is on record for the subject property.

HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately discontinue the short-term vacation rental use of 3075 Clay and return it to its authorized long term dwelling unit use. The advertising of the subject property as a vacation rental through Internet, newspapers, or any other means must also be stopped. If you intend to use the above property as a short-term vacation rental or inn use with no more than five guest rooms, you may file a Conditional Use Application and a Mandatory Discretionary Review Application for such change of use. Please note that such authorizations are subject to the Planning Commission public hearing and approval process. The Planning Department requires that prior to filing a Conditional Use application for a short term rental or inn use and a Mandatory Discretionary Review application for the removal of legal dwelling units; you must return the property to authorized use. Non-compliance with any Planning Code regulations may affect the Planning Department's recommendations on the Conditional Use and Mandatory Discretionary Review applications that are heard before the Planning Commission. If the Planning Commission grants Conditional Use authorization is granted and does not take Discretionary Review to deny the removal of legal dwelling units, you will also need to file a Building Permit Application to implement the change of use. You may download a Conditional Use application and a Mandatory Discretionary Review (Residential Demolition/Merger Application - Section 317) application from the Planning Department's website at http://www.sfgov.org/site/planning_index.asp and get other information on the application process and associated fees.

You may also want to visit the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088 or 558-6570, website: www.sfgov.org/dbi, regarding any building permits that may be required to reinstate the subject property to its authorized use.

TIMELINE TO RESPOND

The responsible parties including the property owner and current leaseholder have fifteen (15) days from the date of this notice and no later than November 25, 2009 to either 1) correct the violation as outlined above or 2) appeal this notice and assessment of penalties as outlined below.

PENALTIES AND APPEAL RIGHTS

Beginning on November 26, 2009, administrative penalties of \$250 per day are being assessed to the responsible party for each day the violation continues unabated, excluding the period of time that the matter has been pending either before the Zoning Administrator or before the Board of Appeals. This notice and any assessed penalties may be appealed to the Board of Appeals. The Board of Appeals may not reduce the amount of the penalty below \$100 per day for each day that the violation exists, excluding the period of time that the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

In addition, please note that pursuant to Planning Code Section 350(c)(1), the Planning Department is authorized to charge for time and materials to recover the cost of correcting Planning Code violations and violations of Planning Commission and any Department conditions of approval if such costs are not covered by any permit or application fees collected as part of the correction of such violations.

APPEAL PROCESSES

If the responsible party believes that this order to remove a violation of Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available within fifteen (15) days from the date of this notice and no later than November 25, 2009:

- 1) The responsible party may request a Zoning Administrator's hearing to show cause why this notice and assessment of penalties are in error and should be rescinded by filing a written request with the Planning Department (see attached form). The Zoning Administrator shall render a decision within 30 days of such hearing and the responsible party may appeal the Zoning Administrator's decision to the Board of Appeals within 15 days from the date of the decision.
- 2) The responsible party may request that the Zoning Administrator refer the matter to the Director of Planning for enforcement action under the process set forth in Planning Code Section 176.1 by filing a written request with the Planning Department (see attached form). The Zoning Administrator shall render a decision within 30 days of such request and the responsible party may appeal the Zoning Administrator's decision to the Board of Appeals within 15 days from the date of this notice. If the Zoning Administrator determines that the enforcement case will proceed under the Planning Code Section 176 that determination shall be made as part of a final decision and is not appealable separately from the decision on the merits of the case.
- 3) If the responsible or any interested party believes that this order to remove a violation of Planning Code is an abuse of discretion by the Zoning Administrator, the responsible or any interested or party may waive the right to a Zoning Administrator's hearing and proceed directly to file an appeal to the Board of Appeals, 1660 Mission Street, Room 3036, San Francisco, CA 94103, telephone: (415) 575-6880, website: www.sfgov.org/bdappeal within fifteen (15) days from the date of this notice.

3075 Clay Street
November 10, 2009

Notice of Violation and Penalty
Complaint Identification Number: 10469

OTHER APPLICATIONS UNDER CONSIDERATION

We want to assist you in ensuring that the subject property is in full compliance with Planning Code and that no violations are pending. The Planning Department requires that the pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any Planning or Building Permit applications not related to address the violations for the subject property may be placed on hold until the outstanding violations have been resolved.

Sincerely,

Lawrence B. Badiner
Zoning Administrator

cc: Edward Sweeney, Deputy Director, Department of Building Inspection

Enc.: Request for Zoning Administrator Hearing Form
Request for Director of Planning Hearing Form

中文詢問請電: 415.558.5956
Para información en Español llamar al: 415.558.5952



**SAN FRANCISCO
PLANNING DEPARTMENT**

**NOTICE OF PENALTIES
Planning Code Section 176**

May 7, 2010

Darren Lee
3073-3075 Clay Street LLC.
1927 Lyon Street
San Francisco, CA 94115

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RE: Violation of Planning Code Section: 209.2(d): Other Housing (Short-Term Vacation Rental Use for Transient Guests without Authorization)

Complaint Identification Number: 10469

Site Address: 3075 Clay St.

Assessor's Block/Lots: 1005/022

Zoning District: RH-3, Residential, House Districts, Three-Family

Staff Contact: Adrian Putra, (415) 575-9079, Adrian.Putra@sfgov.org

Dear Sir or Madam:

The Planning Department issued an Enforcement Notification on September 4, 2009 and a Notice of Violation and Penalty on November 10, 2009 regarding the dwelling unit at the subject property (3075 Clay) being used for short-term nightly or weekly vacation rental purposes. It has been reported that at any given time there are ten or more guests in the dwelling unit. A concern has been expressed in regards to the safety and character of neighborhood and resulting noise and parking problems from the transient overnight guests, overcrowding, and frequent parties at the subject property.

You were given a 15-day grace period to either abate the violation or contest the Notice of Violation and Penalty. To date you have not provided evidence that your property was not operating as a short-term vacation rental during a 33-day period from November 11, 2009 to December 13, 2009. Daily penalties of \$250.00 per day have accrued for this 33-day period from November 11, 2009 to December 13, 2009

As of May 7, 2010 the accrued penalties for the violation totaled **\$8,250**. This letter is to notify you that the above accrued penalties are due now. Please make a check payable to "San Francisco Planning Department" and address it to 1650 Mission Street, Suite 400, San Francisco, CA 94103 (Attn: Adrian Putra).

This letter is to notify you that the above accrued penalties are due now. Please make a check payable to "San Francisco Planning Department" and address it to 1650 Mission Street, Suite 400, San Francisco, CA 94103 (Attn: Adrian Putra).

Notice of Penalties
Darren Lee
3075 Clay Street

May 7, 2010
Complaint Identification Number: 10469

In the event that you do not send payment within 30 days from this letter's date, the balance will be forwarded for collection to the Bureau of Delinquent Revenue. Notably, penalties will continue to accrue at \$250.00 per day as long as the violation exists and we will bill you for and collect on these penalties. Thank you for your prompt attention to this matter.

If there are any questions in regards to the violation or the billing please contact Adrian Putra at (415) 575-9079.

OTHER APPLICATIONS UNDER PLANNING DEPARTMENT CONSIDERATION

We want to assist you in ensuring the subject property is in full compliance with Planning Code and that no violations are pending. The Planning Department requires that pending violations be resolved prior to the processing and approving of any new building permits or other applications. Therefore, any applications under consideration by the Planning Department for the subject site will be placed on hold until further notice.

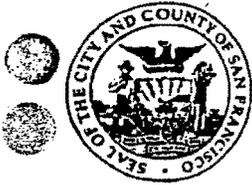
If any interested party believes that this order to remove a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals, 1660 Mission Street, Room 3036, San Francisco, CA 94103, telephone: (415) 575-6880, website: www.sfgov.org/bdappeal within fifteen (15) days from the date of this notice.

Sincerely,

Elaine Forbes
Chief Administrative Officer

cc: Adrian Putra, Planning Department
Christine Haw, Code Enforcement Supervisor
Alex Tse, Deputy City Attorney
Valerie Lee, 1153 Mission Street, San Francisco, CA 94103

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SAN FRANCISCO PLANNING DEPARTMENT

NOTICE OF PENALTY

June 21, 2013

Property Owner

Darren Lee
3073-3075 Clay Street LLC
1148 Fell St
San Francisco, CA 94117

Site Address: 3075 Clay Street
Assessor's Block/Lots: 1005/022
Zoning District: RH-3, Residential, House District, Three-family
Complaint Number: 10469
Code Violation: Section 209.2(d), Other Housing - Short-Term Vacation Rental Use for Transient Guests without Authorization
Administrative Penalty: \$250 Each Day of Violation
Staff Contact: Rachna, (415) 575-6806 or rachna.rachna@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The above referenced property is deemed to be in violation of the Planning Code. As the owner or leaseholder of the subject property, you are a 'responsible' party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

DESCRIPTION OF VIOLATION

Our records show that the subject property is currently authorized for One-Family dwelling use. The violation pertains to the use of property as a short-term vacation rental for the accommodation of transient overnight guests without such change of use authorization. Planning Code Section 209.2(d) requires a Conditional Use Authorization (CUA) for a tourist hotel or inn use provided no more than five guest rooms are offered for compensation and accommodation of transient overnight guests.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Such conditions, stipulations, special restrictions, and other limitations include conditions prescribed by the Zoning Administrator, the City Planning Commission, the Board of Permit Appeals, and the Board of Supervisors in any actions pursuant to their authority under this Code. Failure to comply with any of these provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

TIMELINE OF INVESTIGATION

On September 4, 2009, the Planning Department sent you an Enforcement Notification informing you about the violation and the abatement process. You did not respond to this notice. On November 10, 2009, the Department sent you a Notice of Violation and Penalty. On February 6, 2010, you provided information indicating the long-term rental use at the above property. On May 7, 2010, the Planning Department sent you a Notice of Penalties requiring you to pay penalty for non-compliance with the

Planning Code from November 11, 2009 to December 13, 2009. On May 21, 2013, the Planning Department received complaint that the above property is again being used as a short-term vacation rental since March 2013. On May 21, 2013, the Planning Department sent you a courtesy Notice of Complaint. On May 24, 2013, the Department staff received a phone call from your secretary on your behalf indicating that the above property was being used only for long-term rental purposes. The Planning Department Staff, Rachna, advised your secretary to submit such evidence. However, to date, no such evidence has been provided. Our investigation indicates that the subject property is being used as a short-term rental to accommodate transient guests in violation of the Planning Code.

ADMINISTRATIVE PENALTY

Pursuant to Planning Code Section 176, the Planning Department Zoning Administrator has the authority to enforce the Planning Code and impose penalty against violations for each day a violation continues unabated excluding the appeal period if violations are not corrected within the required time limit upon serving of notices. You did not appeal the Notice of Violation and Penalty issued on November 10, 2009 within the 15-day appeal period provided in that notice. As we informed you in the Notice of Penalties issued on May 7, 2010, penalties will continue to accrue at \$250 per day as long as the violation exists. Accordingly, beginning on May 21, 2013, administrative penalty of \$250 per day has been assessed for each day the above violation continues unabated.

As of this notice writing, the accrued penalty amount is \$8000 and shall be paid within 30 days from the date of this notice. Additional penalty will continue to accrue until corrective actions are taken to abate the violation. Please be advised that the payment of penalty does not excuse failure to correct the violation or bar further enforcement action.

If the accruing penalty amount is not received within 30 days, the Planning Department will forward the matter to the Bureau of Delinquent Revenue for collection as authorized by Article V, Section 10.39 of the San Francisco Administrative Code.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(c)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of \$1179 for 'Time and Materials' cost associated with the Code Enforcement investigation. Additional fees will continue to accrue until the violation is abated. This fee is separate from the 'administrative penalty as noted above and is not appealable.

To pay the 'Administrative Penalty' and 'Time and Materials Fee', please make two separate checks payable to 'San Francisco Planning Department' for 'Code Enforcement' with reference to the above property address and Complaint No. and send to 1650 Mission Street, Suite 400, San Francisco, CA 94103 (Attn: Rachna - Zoning and Compliance Division).

HOW TO CORRECT VIOLATION

You can abate the above violation as following:

1. If you intend to seek legalization of short-term vacation rental use at the above property, you may file a CUA Application. You will also need to discontinue the short-term vacation rental use and such advertising until you have received such authorization. If CUA is granted, you will also need to obtain a Building Permit to implement the change of use. Or,
2. If you do not intend to use your property as a short-term vacation rental use, you must reinstate the subject property to its authorized use as a One-Family dwelling. You are also required to provide evidence of compliance including but not limited to leases with tenants since March 2013, tenants' proof of permanent residence, their contact info, and letters from each tenant describing their occupancy status at the above property. You are also required to submit a notarized affidavit of compliance to demonstrate that the above property is in compliance with the Planning Code.

To prevent additional penalty and avoid further enforcement action, you will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. A site visit may also be required to verify the authorized use at the above property. You may also be required to obtain a Building Permit for any alterations done without benefit of permits.

Please contact the Department of Building Inspection (DBI) located at 1660 Mission Street, telephone: (415) 558-6088, website: www.sfgov.org/dbi regarding the Building Permit process. Please contact the Planning Department Public Information Counter located at the first floor of 1660 Mission Street, telephone: (415) 558-6377 for any questions regarding the planning process.

OTHER APPLICATIONS UNDER PLANNING DEPARTMENT CONSIDERATION

The Planning Department requires that pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation will be placed on hold until a corrective action is taken to abate the violation. You may contact the enforcement planner as noted above with any questions on the enforcement and compliance process.

cc: Dan Lowrey, Acting Deputy Director, Department of Building Inspection

中文詢問請電: 558.6378
Para información en Español llamar al: 558.6378

Affidavit of Tenant

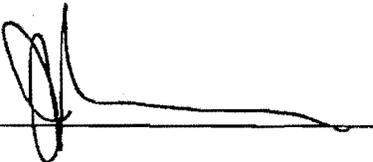
I, Jefferson Chen, am tenant to 3075 Clay Street, San Francisco, CA 94115.

I began my permanent residence in 3075 Clay Street, San Francisco, CA 94115

on March 1, 2013 until February 28, 2014. I paid an amount of \$ 6000.00

as my monthly rent. Thereafter, I will continue to reside here on a permanent basis.

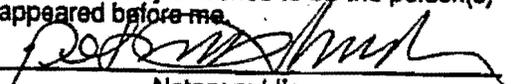
The undersigned is the tenant of the property and the information presented is true and correct to the best of my knowledge.

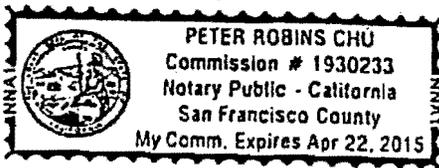
Signature: 

Date: 06/28/2013

State of California
County of SAN FRANCISCO
Subscribed and sworn to (or affirmed) before
me on this 28th day of JUNE 2013
by JEFFERSON CHEN

who proved to me on the
basis of satisfactory evidence to be the person(s)
who appeared before me.


Notary public





**SAN FRANCISCO
PLANNING DEPARTMENT**

REMINDER NOTICE OF PENALTY

August 8, 2013

Property Owner

Darren Lee
3073-3075 Clay Street LLC
1148 Fell St
San Francisco, CA 94117

Site Address: 3075 Clay Street
Assessor's Block/Lots: 1005/022
Zoning District: RH-3, Residential, House District, Three-family
Complaint Number: 10469
Code Violation: Section 209.2(d), Other Housing - Short-Term Vacation Rental Use for Transient Guests without Authorization
Administrative Penalty: \$250 Each Day of Violation
Staff Contact: Rachna, (415) 575-6806 or rachna.rachna@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The above referenced property is deemed to be in violation of the Planning Code. As the owner or leaseholder of the subject property, you are a 'responsible' party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

DESCRIPTION OF VIOLATION

The violation pertains to the use of property as a short-term vacation rental for the accommodation of transient overnight guests without such change of use authorization. Planning Code Section 209.2(d) requires a Conditional Use Authorization (CUA) for a tourist hotel or inn use provided no more than five guest rooms are offered for compensation and accommodation of transient overnight guests.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Such conditions, stipulations, special restrictions, and other limitations include conditions prescribed by the Zoning Administrator, the City Planning Commission, the Board of Permit Appeals, and the Board of Supervisors in any actions pursuant to their authority under this Code. Failure to comply with any of these provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

TIMELINE OF INVESTIGATION

On September 4, 2009, the Planning Department sent you an Enforcement Notification informing you about the violation and the abatement process. You did not respond to this notice. On November 10, 2009, the Department sent you a Notice of Violation and Penalty. On February 6, 2010, you provided information indicating the long-term rental use at the above property. On May 7, 2010, the Planning Department sent you a Notice of Penalties requiring you to pay penalty for non-compliance with the Planning Code from November 11, 2009 to December 13, 2009. On May 21, 2013, the Planning

Department received complaints that the above property is again being used as a short-term vacation rental since early 2013. On May 21, 2013, the Planning Department sent you a courtesy Notice of Complaint. On June 21, 2013, the Department sent you a Notice of Penalty advising you to correct the violation and pay the accruing penalty amount. In response to this notice, we received information from your office secretary to indicate that the above property is occupied by Mr. Jefferson Chen for long-term rental use since March 1, 2013. Upon further investigation by the Department staff, it has been confirmed that the above property is being used as a short-term rental to accommodate transient guests in violation of the Planning Code.

ADMINISTRATIVE PENALTY

Pursuant to Planning Code Section 176, the Planning Department Zoning Administrator has the authority to enforce the Planning Code and impose penalty against violations for each day a violation continues unabated excluding the appeal period if violations are not corrected within the required time limit upon serving of notices. You did not appeal the Notice of Violation and Penalty issued on November 10, 2009 within the 15-day appeal period provided in that notice. As we informed you in the Notice of Penalties issued on May 7, 2010, penalties continue to accrue at \$250 per day as long as the violation exists. Accordingly, beginning on May 21, 2013, administrative penalty of \$250 per day has been assessed for each day the above violation continues unabated.

As of August 7, 2013, the accrued penalty amount is \$19,750 and shall be paid within 15 days from the date of this notice. Additional penalty will continue to accrue until corrective actions are taken to abate the violation. Please be advised that the payment of penalty does not excuse failure to correct the violation or bar further enforcement action.

If the accruing penalty amount is not received within 15 days, the Planning Department will forward the matter to the Bureau of Delinquent Revenue for collection as authorized by Article V, Section 10.39 of the San Francisco Administrative Code.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(c)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of \$1179 for 'Time and Materials' cost associated with the Code Enforcement investigation. Additional fees will continue to accrue until the violation is abated. This fee is separate from the 'administrative penalty as noted above and is not appealable.

To pay the 'Administrative Penalty' and 'Time and Materials Fee', please make two separate checks payable to 'San Francisco Planning Department' for 'Code Enforcement' with reference to the above property address and Complaint No. and send to 1650 Mission Street, Suite 400, San Francisco, CA 94103 (Attn: Rachna - Zoning and Compliance Division).

HOW TO CORRECT VIOLATION

You can abate the above violation as following:

1. If you intend to seek legalization of short-term vacation rental use at the above property, you may file a Conditional Use Authorization application. You will need to discontinue the short-term vacation rental use and such advertising until you have received such authorization. If Conditional Use Authorization is granted, you will also need to obtain a Building Permit to implement the change of use. Or,
2. If you do not intend to use the above property as a short-term vacation rental use, you must reinstate the subject property to its authorized long-term dwelling use. You are also required to provide evidence of compliance including but not limited to long-term leases with tenants, tenants' contact info, proof of permanent residence, utility bills such as water, gas, electricity, garbage, and phone bills in tenants' name, and letters from tenants describing their occupancy at the above property. You are also required to submit a notarized affidavit of compliance to demonstrate that the above property has been brought into compliance with the Planning Code. A site visit is also required to verify the authorized use at the above property.

You may also be required to obtain a Building Permit for any alterations done without benefit of permits. Please contact the Department of Building Inspection (DBI) located at 1660 Mission Street, telephone: (415) 558-6088, website: www.sfgov.org/dbi regarding the Building Permit process. Please contact the Planning Department Public Information Counter located at the first floor of 1660 Mission Street, telephone: (415) 558-6377 for any questions regarding the planning process.

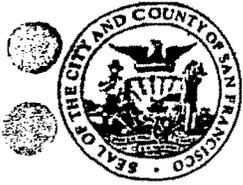
Please be advised that the Planning Department may refer the above enforcement case to the Office of City Attorney to seek compliance with the Planning Code. To prevent further enforcement action and additional penalty, you will need to provide adequate evidence to demonstrate that the violation has been abated.

OTHER APPLICATIONS UNDER PLANNING DEPARTMENT CONSIDERATION

The Planning Department requires that pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation will be placed on hold until a corrective action is taken to abate the violation. You may contact the enforcement planner as noted above with any questions on the enforcement and compliance process.

cc: Dan Lowrey, Acting Deputy Director, Department of Building Inspection
Mr. Jefferson Chen, 3075 Clay Street, San Francisco, CA 94115

中文詢問請電: 558.6378
Para información en Español llamar al: 558.6378



SAN FRANCISCO PLANNING DEPARTMENT

FINAL NOTICE OF PENALTY

October 16, 2013

Property Owner

Darren Lee
3073-3075 Clay Street LLC
1148 Fell St
San Francisco, CA 94117

Site Address: 3075 Clay Street
Assessor's Block/Lots: 1005/022
Zoning District: RH-3, Residential, House District, Three-family
Complaint Number: 10469
Code Violation: Section 209.2(d), Other Housing - Short-Term Vacation Rental Use for Transient Guests without Authorization
Administrative Penalty: \$250 Each Day of Violation
Staff Contact: Rachna, (415) 575-6806 or rachna.rachna@sfgov.org

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The above referenced property is deemed to be in violation of the Planning Code. As the owner or leaseholder of the subject property, you are a 'responsible' party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

DESCRIPTION OF VIOLATION

The violation pertains to the use of property as a short-term vacation rental for the accommodation of transient overnight guests without such change of use authorization. Planning Code Section 209.2(d) requires a Conditional Use Authorization (CUA) for a tourist hotel or inn use provided no more than five guest rooms are offered for compensation and accommodation of transient overnight guests.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Such conditions, stipulations, special restrictions, and other limitations include conditions prescribed by the Zoning Administrator, the City Planning Commission, the Board of Permit Appeals, and the Board of Supervisors in any actions pursuant to their authority under this Code. Failure to comply with any of these provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

TIMELINE OF INVESTIGATION

On September 4, 2009, the Planning Department sent you an Enforcement Notification informing you about the violation and the abatement process. You did not respond to this notice. On November 10, 2009, the Department sent you a Notice of Violation and Penalty. On February 6, 2010, you provided information indicating the long-term rental use at the above property. On May 7, 2010, the Planning Department sent you a Notice of Penalties requiring you to pay penalty for non-compliance with the Planning Code from November 11, 2009 to December 13, 2009. On May 21, 2013, the Planning

Department received complaints that the above property is again being used as a short-term vacation rental since early 2013. On May 21, 2013, the Planning Department sent you a courtesy Notice of Complaint.

On June 21, 2013, the Department sent you a Notice of Penalty advising you to correct the violation and pay the accruing penalty amount. In response to this notice, we received information from your office secretary to indicate that the above property is occupied by Mr. Jefferson Chen for long-term rental use since March 1, 2013. Upon further investigation by the Department staff, it has been confirmed that the above property is being used as a short-term rental to accommodate transient guests in violation of the Planning Code. Consequently, the Department sent you a 'Reminder Notice of Penalty' on August 8, 2013. To date, you have not responded or submitted the accrued 'penalty' and 'time and materials' amount as required in that notice. Nor, have you corrected the violation. The above property continues to be used as a short-term vacation rental in violation of the Planning Code.

ADMINISTRATIVE PENALTY

Pursuant to Planning Code Section 176, the Planning Department Zoning Administrator has the authority to enforce the Planning Code and impose penalty against violations for each day a violation continues unabated excluding the appeal period if violations are not corrected within the required time limit upon serving of notices. You did not appeal the Notice of Violation and Penalty issued on November 10, 2009 within the 15-day appeal period provided in that notice. As we informed you in the Notice of Penalties issued on May 7, 2010, penalties continue to accrue at \$250 per day as long as the violation exists. Accordingly, you were imposed penalty from November 11 2009 to December 13, 2009. Beginning on May 21, 2013, additional administrative penalty of \$250 per day has been assessed for each day the above violation continues unabated.

As of October 15, 2013, the accrued penalty amount is \$37,000 and shall be paid immediately. The Planning Department is forwarding the matter to the Bureau of Delinquent Revenue for collection as authorized by Article V, Section 10.39 of the San Francisco Administrative Code. Additional penalty will continue to accrue until corrective actions are taken to abate the violation. Please be advised that the payment of penalty does not excuse failure to correct the violation or bar further enforcement action.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(c)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of \$2062.48 for 'Time and Materials' cost associated with the Code Enforcement investigation. Additional fees will continue to accrue until the violation is abated. This fee is separate from the 'administrative penalty as noted above and is not appealable.

To pay the 'Administrative Penalty' and 'Time and Materials Fee', please make two separate checks payable to 'San Francisco Planning Department' for 'Code Enforcement' with reference to the above property address and Complaint No. and send to 1650 Mission Street, Suite 400, San Francisco, CA 94103 (Attn: Rachna - Zoning and Compliance Division).

HOW TO CORRECT VIOLATION

You can abate the above violation as following:

1. If you intend to seek legalization of short-term vacation rental use at the above property, you may file a Conditional Use Authorization application. You will need to discontinue the short-term vacation rental use and such advertising until you have received such authorization. If Conditional Use Authorization is granted, you will also need to obtain a Building Permit to implement the change of use. Or,
2. If you do not intend to use the above property as a short-term vacation rental use, you must reinstate the subject property to its authorized long-term dwelling use. You are also required to provide evidence of compliance including but not limited to long-term leases with tenants, tenants' contact info, proof of permanent residence, utility bills such as water, gas, electricity, garbage, and phone bills in tenants' name, and letters from tenants describing their occupancy at the above property. You are also required to submit a notarized affidavit of compliance to demonstrate that the above property has been brought into compliance with the Planning Code. A site visit is also required to verify the authorized use at the above property.

You may also be required to obtain a Building Permit for any alterations done without benefit of permits. Please contact the Department of Building Inspection (DBI) located at 1660 Mission Street, telephone: (415) 558-6088, website: www.sfgov.org/dbi regarding the Building Permit process. Please contact the Planning Department Public Information Counter located at the first floor of 1660 Mission Street, telephone: (415) 558-6377 for any questions regarding the planning process.

Please be advised that the Planning Department may refer the above enforcement case to the Office of City Attorney to seek compliance with the Planning Code. To prevent further enforcement action and additional penalty, you will need to provide adequate evidence to demonstrate that the violation has been abated.

OTHER APPLICATIONS UNDER PLANNING DEPARTMENT CONSIDERATION

The Planning Department requires that pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation will be placed on hold until a corrective action is taken to abate the violation. You may contact the enforcement planner as noted above with any questions on the enforcement and compliance process.

cc: Dan Lowrey, Acting Deputy Director, Department of Building Inspection
Mr. Jefferson Chen, 3075 Clay Street, San Francisco, CA 94115

中文詢問請電 : 558.6378
Para información en Español llamar al: 558.6378