

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CITY ATTORNEY



DAVID CHIU
City Attorney



March 9, 2022

Bauman Landscape & Construction Inc. d/b/a Murphy Properties, Inc. (Owner)
Bauman Redi-Mix Concrete (Tenant) 451 E. Jamie Court
1255 Battery Street, Suite 400 South San Francisco, CA 94080
San Francisco, CA 94111 E-mail: Randy@cdsworldwide.com;
E-mail: angela@baumanland.com; Wjwmsd@gmail.com
mikeb@baumanland.com

Re: **ORDER TO CEASE AND DESIST UNPERMITTED OPERATIONS AT
AND AROUND 955 EGBERT, IN THE BAYVIEW HUNTERS POINT
REDEVELOPMENT PLAN AREA**

Dear Tenant and Owner:

We write to you because the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, commonly known as the Office of Community Investment and Infrastructure (OCII), and the City Attorney for the City and County of San Francisco (which is also counsel for OCII), have become aware that certain parcels at and near 955 Egbert Avenue, which are owned by Murphy Properties, Inc. and occupied and used by Bauman Landscape & Construction Inc. d/b/a Bauman Redi-Mix Concrete (Site), are being used for operations that are not allowed under the land use controls established by the Bayview Hunters Point Redevelopment Plan (the [Redevelopment Plan](#)). Therefore, **Bauman Redi-Mix Concrete is hereby required and ordered to cease its operations at the Site. We understand that as part of complying with this Order, Bauman Redi-Mix Concrete may need to safely wind down certain ongoing work in the next few days. Therefore, we will conduct an inspection of the Site on Tuesday, March 15th at 10 a.m. to confirm compliance with this Order.**

The land use controls at the Site are set forth in the Redevelopment Plan, as provided under San Francisco Planning Code section 249.50(c). The Site is within the Candlestick Mixed Use Residential District. (Redevelopment Plan § 4.2.7.) Industrial uses are not authorized Principal or Secondary Uses permitted in the District. The Redevelopment Plan describes the uses in the District as follows:

The Candlestick Mixed Use Residential District consists of residential uses and some compatible local-serving retail and services. The primary land use is residential units ranging from attached single family homes to high-rise multi-family residential developments. Related uses also include local-serving businesses, neighborhood retail, community facilities, family Child-Care Facilities, small professional offices, home occupations, and recreation facilities. This district covers the allowable land uses for the

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residential neighborhoods of Alice Griffith Neighborhood, Candlestick
North Neighborhood and Candlestick South Neighborhood...
(Redevelopment Plan § 4.2.7.)

The Redevelopment Plan also lists certain Prohibited Uses, such as commercial storage, in this District.

Consistent with the goals of the Redevelopment Plan (§ 4.1), within the District the Alice Griffith residential community has been rebuilt, with hundreds of new apartment units occupied by residents. (Redevelopment Plan § 4.2.1.) This vibrant and dense residential neighborhood exists in close proximity to the Site.

At the Site, Bauman Redi-Mix Concrete is engaged in crushing concrete and concrete/asphalt, and mixing those crushed materials as well as other aggregates, including sand, rock, and gravel. Between 30 to 40 trucks come in and out of the facility daily, bringing in raw material or broken concrete or concrete/asphalt, and transporting out final product for use at construction sites. These materials and other debris are also stored at the Site. These are all unpermitted industrial uses. Furthermore, no application has been made to OCII for any such use to be authorized as a Non-Designated Use, Interim Use or Temporary Use, and no such authorization has been granted by OCII. (Redevelopment Plan §§ 4.2.6; 4.2.10, 4.2.11.) Nor has a variance been granted by the Commission on Community Reinvestment and Infrastructure (the Commission). (*Id.* § 4.3.13.) Therefore, this use violates the land use controls in the Redevelopment Plan.

To the extent that Bauman Redi-Mix Concrete wishes OCII to consider a land use authorization for a particular use, OCII will apply the standards in the Redevelopment Plan, including those for Non-Designated Use, Interim Use, Temporary Uses, or a variance to ensure, among other things, that the uses are consistent with the objectives of the Redevelopment Plan. (§§ 4.2.6, 4.2.7, 4.2.10, 4.2.11, 4.3.13.) **Bauman Redi-Mix Concrete must in the meantime cease its current operations per this Order, until and unless such application is granted in writing by the OCII's Executive Director or by resolution of the Commission after public hearing, each acting in their sole discretion, and subject to any conditions to approval they may impose.**

Please be advised that the City Attorney is authorized by law to take legal action to enforce this Order. As counsel for OCII, the City Attorney may file a court action to enter an injunction to compel compliance. (Redevelopment Plan § 2.4.2.) Furthermore, the City Attorney may file an action in the name of the People of the State of California to abate a public nuisance that is "injurious to health," "offensive to the senses," or that "interfere[s] with the quiet enjoyment of life or property," where such nuisance "affects at the same time an entire community or neighborhood, or any considerable number of persons." (Cal. Civ. Code §§ 3479, 3480; Cal. Code Civ. Proc. § 731.) An Unfair Competition Law action may also be filed in the name of the People of the State of California, to secure injunctive relief and penalties for business conduct that violates land use controls contained in the Redevelopment Plan. (Bus. & Prof. Code §§ 17200-17206.)

Finally, nothing in this letter is intended to preclude lawful uses of the Site – other than the currently unpermitted industrial uses – under the Redevelopment Plan. Any questions about lawful uses should be directed to Aaron Foxworthy, Acting Development Services Manager and Deputy General Counsel, OCII, at aaron.foxworthy@sfgov.org, (415) 772-2464.

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If you have any questions about the foregoing or your compliance with this Order, please contact Mr. Foxworthy and Deputy City Attorney Helen Castillo at 415-554-3923 or helen.castillo@sfcityatty.org.

Very truly yours,

JAMES B. MORALES, Interim Executive
Director & General Counsel, Office of
Community Investment and Infrastructure



DAVID CHIU, City Attorney for the City
and County of San Francisco

