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

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

UNLIMITED JURISDICTION

CITY AND COUNTY OF SAN FRANCISCO, a Municipal Corporation; and the PEOPLE OF THE STATE OF CALIFORNIA, by and through David Chiu, City Attorney for the City and County of San Francisco, Plaintiffs, vs. URSULA FUNG, an individual, REX TIN CHAN, an individual, EZ DOLLAR DISCOUNT STORE, MOHAMED MUFTAH, an individual, and DOE ONE through DOE FIFTY, Defendants.	Case No. **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF AND PENALTIES** Type of Complaint [42] Other

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The CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, and the PEOPLE OF THE STATE OF CALIFORNIA, by and through San Francisco City Attorney DAVID CHIU (collectively "Plaintiffs"), file their Complaint against Defendants URSULA FUNG, an individual, REX TIN CHAN, an individual, EZ DOLLAR DISCOUNT STORE, MOHAMED MUFTAH, an individual, and DOE ONE through DOE FIFTY (collectively "Defendants"). PLAINTIFFS hereby allege as set forth below:

INTRODUCTION

1. Since DEFENDANTS have been in business, the residents of the Tenderloin neighborhood have suffered due to the DEFENDANTS' illegal acts and business practices at the property located at 335 Jones Street, San Francisco, California, mid-block between Ellis and Eddy Streets. DEFENDANTS operate a business at 335 Jones Street that contributes to the criminal activity in the Tenderloin. This action seeks to put an end to that activity.

2. DEFENDANTS have owned and operated the EZ DOLLAR DISCOUNT STORE since at least January 2024. Due to the illegal gambling and sale of drug paraphernalia occurring at the property, the EZ DOLLAR DISCOUNT STORE has attracted criminal and nuisance activity to the surrounding community, necessitating police intervention and adversely affecting the neighborhood and the health, safety, and well-being of those who live and work in the area, as well as the general public.

3. By allowing illegal gambling to occur at the EZ DOLLAR DISCOUNT STORE, DEFENDANTS have maintained the property as a nuisance in violation of California Penal Code sections 11225-11235 ("Red Light Abatement Law").

4. In addition to the illegal gambling at the EZ DOLLAR DISCOUNT STORE, DEFENDANTS have maintained 335 Jones Street in such a way that that it violates the San Francisco Building Code and San Francisco Planning Code and substantially endangers the health, welfare, and safety of its neighbors, the neighborhood, and the City and County of San Francisco.

5. By allowing illegal gambling, the sale of drug paraphernalia and violations of the San Francisco Building and Planning Codes to occur at the EZ DOLLAR DISCOUNT STORE,

DEFENDANTS have maintained the property as a public nuisance in violation of California Civil Code sections 3479-3480.

6. By operating, and/or allowing the operation of, the EZ DOLLAR DISCOUNT STORE in repeated violation of applicable state and local laws and as a nuisance, DEFENDANTS have also demonstrated a pattern and practice of engaging in unlawful business practices in violation of the Unfair Competition Law ("UCL"), California Business and Professions Code sections 17200-17210.

7. California's Gambling Control Act ("GCA"), Business and Professions Code sections 19800 *et seq*. was passed in 1997. While gambling establishments have existed in California for over 100 years, the legal gambling industry prior to 1984 was almost entirely unregulated; California law has since outlawed certain forms of gambling and left other forms free of government oversight or regulation.

8. With the passage of the GCA, the California Legislature recognized that "[u]nregulated gambling enterprises are inimical to the public health, safety, welfare, and good order. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies." Business and Professions Code section 19801(d).

9. California has long recognized the adverse impact of gambling on individuals and communities and has consequently restricted legal gambling to the California Lottery, "card rooms," casinos operated by Native American tribes, and race tracks. State law and many local ordinances make virtually all other forms of gambling expressly illegal and provide local governments both civil and criminal remedies to address the crime and nuisance created by illegal gambling operations. *See* Penal Code Chapter 10, sections 330-337 *et seq.* and 11225-11235; San Francisco Municipal Police Code sections 325-327.

10. In order to lawfully operate a business in which drug paraphernalia is offered, sold, or given away, the business must keep and display the drug paraphernalia in a separate room, and the business must exclude minors not accompanied by a parent or legal guardian from entry. *See* Health and Safety Code, Chapter 6, section 11364.5.

PARTIES AND SUBJECT PROPERTY

11. Plaintiff CITY AND COUNTY OF SAN FRANCISCO (the "CITY") is a municipal corporation organized and existing under and by virtue of the laws of the State of California, and is a city and county. The CITY brings this action under the Red Light Abatement Law, California Civil Code sections 3479, 3480, 3491, 3494, and California Code of Civil Procedure section 731.

12. Plaintiff PEOPLE OF THE STATE OF CALIFORNIA (the "PEOPLE"), by and through David Chiu, City Attorney of the City and County of San Francisco, bring this action pursuant to the Red Light Abatement Law, the Unfair Competition Law, Civil Code Sections 3479, 3480, 3491, 2494, and Code of Civil Procedure Section 731.

13. Defendants URSULA FUNG and REX TIN CHAN are individuals who own the property where the EZ DOLLAR DISCOUNT STORE is located, 335 Jones Street, San Francisco, California, San Francisco Assessor's Block 0333, Lot 004 ("PROPERTY"). URSULA FUNG and CHAN REX TIN are domiciled in San Francisco, California.

14. Defendant MOHAMED MUFTAH is an individual who owns, manages and/or operates the EZ DOLLAR DISCOUNT STORE, a commercial business located at 335 Jones Street, in the City and County of San Francisco. The EZ DOLLAR DISCOUNT STORE is an illegal gambling business, where patrons pay to play slot machines for the chance to win cash payouts. Actions taken, or omissions made, by MOHAMED MUFTAH's employees or agents in the course of their employment or agency at the EZ DOLLAR DISCOUNT STORE are considered to be actions or omissions of MOHAMED MUFTAH for the purposes of this Complaint. On information and belief, PLAINTIFFS believe MOHAMED MUFTAH is domiciled in San Francisco, California.

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

GENERAL ALLEGATIONS

16. The EZ DOLLAR DISCOUNT STORE is a commercial business located on the ground floor of 335 Jones Street, San Francisco, California, a busy commercial street in the Tenderloin District of San Francisco. MOHAMED MUFTAH owns and/or operates the EZ DOLLAR

DISCOUNT STORE, which has been in operation since at least January 2024. MOHAMED MUFTAH leases the commercial space from URSULA FUNG and REX TIN CHAN.

I. SAN FRANCISCO POLICE DEPARTMENT'S INVESTIGATION OF THE EZ DOLLAR DISCOUNT STORE

17. The EZ DOLLAR DISCOUNT STORE has the appearance of a convenience store. However, Defendant MOHAMED MUFTAH ran a gambling operation at the business where patrons could wager on various gaming machines.

18. On October 2, 2024, a San Francisco Police Department ("SFPD") officer entered the EZ DOLLAR DISCOUNT STORE and saw two coin pusher games in the front of the store. The object of these games is to shoot a coin towards a prize so that the prize falls into a payout slot. However, instead of prizes, the machines was filled with quarters and paper currency.

19. The officer then walked to the back of the store and saw six arcade style gambling machines lined up in the back left corner of the store. The officer saw a woman playing one of the games. The woman held a piece of burnt aluminum foil and a plastic straw, which the officer recognized as paraphernalia used to ingest Fentanyl.

20. SFPD officers conducted surveillance at the EZ DOLLAR DISCOUNT STORE on January 2, 2025. They saw many people coming in and out of the store, but no one exiting the store appeared to have made any purchases. In addition, several people exited the store empty handed and then re-entered multiple times. This unusual foot traffic was consistent with and supported the officers' opinion that patrons were gambling inside the store.

21. SFPD officers conducted an undercover operation on January 15, 2025. Two undercover officers entered the store and saw four gambling machines in the back of the store. The officers had a total of $100 in marked City funds. One officer used $40 of the City funds and immediately lost all of his money.

22. The other officer played $20 and won $1. The officer asked the clerk to cash him out. The clerk reviewed the store camera footage, removed $21 from the register, and gave it to the officer. The clerk then used a key to open the machine and reset the credits to zero.

/ / /

23. On January 27, 2025, SFPD members obtained and executed a search warrant at the EZ DOLLAR DISCOUNT STORE.

24. SFPD officers found significant evidence of criminal activity while executing the search warrant at the EZ DOLLAR DISCOUNT STORE. Officers seized 5 working electronic gambling machines and 3 broken electronic gambling machines. The prizes inside one gambling machine included Visa gift cards, a Bluetooth speaker, a solar charger, and a watch. Officers seized $2,181 in cash from the machines and the register. The officers also seized a ledger that contained "pay/owe" sheets. Images of two of the electronic gambling machines are shown below.

25. In addition to illegal gambling, DEFENDANTS have permitted the EZ DOLLAR DISCOUNT STORE to be used as a place where stolen merchandise is bought and sold. Officers seized merchandise on display that had retail stickers and other indicia from Walgreens, CVS, Safeway, Big 5, Trader Joe's, Target, and Harbor Freight. The fact that these items were on display for sale indicate that the EZ DOLLAR DISCOUNT STORE was selling stolen merchandise.

26. The officers also seized hundreds of glass pipes used for ingesting illegal narcotics as well as small plastic baggies commonly used to package narcotics for sale from the display cases, which were located in an area accessible to minors. The store also sold digital scales.

II. UNABATED VIOLATIONS OF SAN FRANCISCO'S BUILDING AND PLANNING CODES

A. San Francisco Department of Building Inspection Notice of Violation for Work Without a Permit (Complaint No. 202430228)

27. On October 31, 2024, San Francisco's Department of Building Inspection ("DBI") issued Notice of Violation ("NOV") No. 202430228 for work without a permit based on the removal of the permitted storefront for the EZ DOLLAR DISCOUNT STORE and the installation of a new storefront. In addition, the NOV cited the unauthorized removal of a partition in the right rear of the EZ DOLLAR DISCOUNT STORE. The NOV ordered DEFENDANTS to obtain a building permit within sixty days and to complete all work within ninety days. DBI mailed the NOV to DEFENDANTS on November 1. A true and correct copy of the NOV is attached hereto as **Exhibit A** and incorporated as part of this Complaint.

28. On November 27, 2024, DBI amended NOV No. 202430228 following a reinspection of the EZ DOLLAR DISCOUNT STORE. The reinspection revealed that additional work had been done without a permit, including adding a door and removing a partition dividing the storage rooms. The inspector noted exposed and unprotected electrical wiring. Finally, a new condenser unit had been installed on the roof without a permit. The amended NOV ordered DEFENDANTS to obtain a building permit within sixty days and to complete the work within ninety days. DBI mailed the amended NOV to DEFENDANTS on November 27, 2024. A true and correct copy of the amended NOV is attached hereto as **Exhibit B** and incorporated as part of this Complaint.

29. DBI NOV No. 202430228 remains unabated.

B. San Francisco Planning Department NOV 2024-00949ENF

30. On November 27, 2024, San Francisco's Planning Department ("Planning") issued Notice of Enforcement ("NOE") No. 2024-00949ENF for selling tobacco paraphernalia without a permit and having the security gate at the storefront partially closed during business hours. The NOE ordered DEFENDANTS to provide evidence that the violations had been abated and that corrective

action had been taken to bring the EZ DOLLAR DISCOUNT STORE into compliance. A true and correct copy of the NOE is attached hereto as **Exhibit C** and incorporated as part of this Complaint.

31. On January 31, 2025, Planning issued NOV 2024-00949ENF after DEFENDANTS failed to take action to abate NOE No. 2024-00949ENF. The NOV provided thirty (30) days to file an appeal or take corrective action to abate the violations outlined in NOV 2024-00949ENF. A true and correct copy of the NOV is attached hereto as **Exhibit D** and incorporated as part of this Complaint.

FIRST CAUSE OF ACTION

FOR VIOLATION OF THE RED LIGHT ABATEMENT ACT BROUGHT BY PLAINTIFFS CITY AND PEOPLE AGAINST ALL DEFENDANTS

(Penal Code Sections 11225 -11235)

32. Plaintiffs PEOPLE OF THE STATE OF CALIFORNIA and the CITY AND COUNTY OF SAN FRANCISCO hereby incorporate by reference paragraphs 1 through 32 above, as though fully set forth herein.

33. From 2024 through the present, DEFENDANTS have operated, and/or permitted the operation of, an illegal gambling establishment at the EZ DOLLAR DISCOUNT STORE by possessing and/or operating, or permitting the possession and operation of, "machine[s] or device[s]" that "may be operated, and by reason of . . . hazard or chance or of other outcome of operation unpredictable by [the user], the user may receive or become entitled to receive . . . [an] additional chance or right to use the slot machine or device" or a "token, or memorandum . . . which may be exchanged for any money, credit, allowance, or thing of value." Penal Code section 330b(d). By possessing and/or operating, and/or permitting the possession and/or operation of, these machines or devices, DEFENDANTS have violated and continue to violate Penal Code section 330b(d) and San Francisco Municipal Police Code sections 325-327. This illegal gambling operation constitutes a nuisance as a matter of law under Penal Code section 11225.

34. Pursuant to Penal Code section 11230, PLAINTIFFS request that the Court order the closure of the EZ DOLLAR DISCOUNT STORE for one year and impose civil penalties of $25,000.00 against each Defendant to prevent DEFENDANTS from continuing to maintain or permit a nuisance at the property.

35. Unless said nuisance is abated, the surrounding community and neighborhood, and the residents and citizens of the City and County of San Francisco and the People of California, will suffer irreparable injury and damage, in that said conditions will continue to be dangerous to the life, safety or health of those who live and work near the EZ DOLLAR DISCOUNT STORE and the general public.

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

SECOND CAUSE OF ACTION
FOR PUBLIC NUISANCE BY PLAINTIFFS CITY AND PEOPLE AGAINST ALL DEFENDANTS
(San Francisco Planning Code; San Francisco Building Code; California Civil Code sections 3479, 3480, and 3494; and California Code of Civil Procedure section 731)

40. Plaintiff CITY hereby incorporates by reference all preceding paragraphs of this Complaint and makes them part of this Second Cause of Action, as though fully set forth herein.

41. As described above, and as set forth in the incorporated Exhibits to this COMPLAINT, DBI issued NOVs to DEFENDANTS for violations of the San Francisco Building Code at the EZ DOLLAR DISCOUNT STORE.

42. As described above, and as set forth in the incorporated Exhibits to this COMPLAINT, Planning issued NOEs and NOVs to DEFENDANTS for violations of the San Francisco Planning Code at the EZ DOLLAR DISCOUNT STORE.

43. Plaintiff CITY brings this Count pursuant to San Francisco Planning Code section 176.

44. Plaintiff City brings this Count pursuant to San Francisco Building Code section 103A.

45. Plaintiff PEOPLE bring this cause of action pursuant to California Code of Civil Procedure section 731 and California Civil Code sections 3479, 3480, and 3494.

46. Pursuant to San Francisco Planning Code section 176, any non-code compliant use, structure, lot, feature, or condition is a public nuisance. DEFENDANTS are now, and for a considerable period of time, and at all times herein mentioned, have been maintaining the PROPERTY as a public nuisance and in violation of San Francisco Planning Code sections 135, 145.1(d)(3)(A), 176, and 249.5. The conditions constituting the continuing public nuisance and violations of the San Francisco Planning Code are more fully described above, and in the Exhibits attached hereto.

47. As described above, DEFENDANTS have failed to comply with, ignored, and disobeyed the NOE and NOV properly issued by Planning, and have allowed the PROPERTY to remain in a substandard, unsafe, and illegal condition for a substantial period of time.

48. Pursuant to San Francisco Building Code section 103A, any non-code compliant use, structure, lot, feature, or condition is a public nuisance. DEFENDANTS are now, and for a considerable period of time, and at all times herein mentioned, have been maintaining the PROPERTY as a public nuisance and in violation of San Francisco Building Code section 106A.1 and San Francisco Electrical Code section 89.116. The conditions constituting the continuing public nuisance and violations of the San Francisco Building Code are more fully described above, and in the Exhibits attached hereto.

49. As described above, DEFENDANTS have failed to comply with, ignored, and disobeyed the NOVs properly issued by DBI, and have allowed the PROPERTY to remain in a substandard, unsafe, and illegal condition for a substantial period of time.

45. DEFENDANTS and their employees have sold and offered for sale paraphernalia used to ingest or inhale controlled substances at the EZ DOLLAR DISCOUNT STORE. Such conduct adversely affects public health, contributes to illegal drug activity, and contributes to other criminal activity.

46. DEFENDANTS and their employees have purchased, sold and offered for sale property they know to be stolen at the EZ DOLLAR DISCOUNT STORE. Such conduct promotes crimes of theft and contributes to other criminal activity.

47. DEFENDANTS and their employees have operated an illegal gambling operation at the EZ DOLLAR DISCOUNT STORE. Such conduct adversely affects public health and contributes to other criminal activity, including violent crimes such as robbery.

48. As described above, DEFENDANTS are now, and for a considerable period of time, and at all times pertinent to the allegations in this Complaint have been, maintaining the PROPERTY in such a manner as to constitute a continuing public nuisance within the meaning of Civil Code sections 3479 and 3480. The practices described above are injurious to the health and safety of the residents and the community, are offensive to the senses, and interfere with the comfortable enjoyment

of life and property. The practices described above also affect a considerable number of people and an entire community and neighborhood.

49. At all times herein mentioned, DEFENDANTS have had notice and knowledge that the PROPERTY constituted a public nuisance, but DEFENDANTS have taken inadequate steps to abate the public nuisance.

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

50. Unless these nuisance conditions are abated, the occupants and neighbors of the subject PROPERTY and the residents of the City and County of San Francisco will suffer irreparable injury and damage because the nuisance conditions will continue to be injurious to the continuous enjoyment of life and the free use of property of the neighbors and the public.

THIRD CAUSE OF ACTION

FOR UNLAWFUL BUSINESS PRACTICES BROUGHT BY PLAINTIFF CITY AND PEOPLE AGAINST ALL DEFENDANTS

(California Business and Professions Code Sections 17200-17210)

51. Plaintiff, the PEOPLE OF THE STATE OF CALIFORNIA, hereby incorporates by reference paragraphs 1 through 50 above, as though fully set forth herein.

52. The PEOPLE bring this cause of action in the public interest in the name of the PEOPLE OF THE STATE OF CALIFORNIA, pursuant to Business and Professions Code sections 17200 through 17210, in order to protect the residents and owners of properties adjoining the EZ DOLLAR DISCOUNT STORE from the unlawful business practices committed by DEFENDANTS in the operation of the EZ DOLLAR DISCOUNT STORE within the City and County of San Francisco, State of California.

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

54. DEFENDANTS are now engaging in and, for a considerable period of time and at all times pertinent to the allegations of this Complaint, have engaged in, unlawful business practices

prohibited by California's Unfair Competition Law by managing and operating, and/or allowing the management and operation of, the EZ DOLLAR DISCOUNT STORE in violation of the following laws:

- Penal Code sections 11225-11235 by allowing illegal gambling to occur at the EZ DOLLAR DISCOUNT STORE;
- Penal Code section 330b by possessing and/or operating, or permitting the possession and/or operation, of slot machines or devices (as defined in Penal Code section 330b(d)) at the EZ DOLLAR DISCOUNT STORE;
- San Francisco Municipal Police Code sections 325-327 by operating and/or keeping slot machines or their equivalent at the EZ DOLLAR DISCOUNT STORE.
- Health and Safety Code section 11364.5 for unlawfully keeping and selling drug paraphernalia in an area accessible to minors.
- Health and Safety Code section 11364.7 by delivering, furnishing, transferring, and possessing with intent to deliver, furnish or transfer drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to ingest, inhale or otherwise introduce into the human body a controlled substance.
- California Penal Code Sections 496 by knowingly purchasing and selling stolen property.
- Commencing work without a permit in violation of San Francisco Building Code Section 106A.
- Violating San Francisco Planning Code sections 249.5, illegal sale of tobacco paraphernalia, and 145.1(d)(3)(A) for closing the storefront security gate during business hours.
- Creating and maintaining a public nuisance in violation of California Civil Code sections 3479, 3480, and 3494, the San Francisco Planning Cod and the San Francisco Building Code.

55. As a direct and proximate result of the foregoing acts and practices, DEFENDANTS have received income, profits, and other benefits, which they would not have received if

DEFENDANTS had not engaged in the violations of the Unfair Competition Law described in this Complaint.

56. DEFENDANTS have been able to unfairly compete with other businesses by offering gambling games that cannot be offered legally and are therefore unavailable to their competitors. Moreover, patrons attracted by illegal gambling are likely to purchase items at the EZ DOLLAR DISCOUNT STORE that they might otherwise purchase at a competitor business.

57. DEFENDANTS have been able to unfairly compete with other businesses by selling stolen products that on information and belief DEFENDANTS were able to acquire and sell at a lower price than available to their law-abiding competitors.

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

59. Unless injunctive relief is granted to enjoin the unlawful business practices of DEFENDANTS, the PEOPLE will suffer irreparable injury and damage.

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

PRAYER

WHEREFORE, PLAINTIFFS pray that:

Declaratory Relief

1. The EZ DOLLAR DISCOUNT STORE be declared a public nuisance;

2. DEFENDANTS be declared to have violated the San Francisco Municipal Codes, including the San Francisco Building Code, the San Francisco Planning Code, and California Civil Code sections 3479 and 3480;

3. DEFENDANTS be declared to have engaged in unlawful business acts and practices in violation of Business and Professions Code sections 17200-17210;

Injunctive Relief

4. The nuisance be preliminarily and permanently abated in accordance with Penal Code sections 11225-11235;

5. All movable property used in the maintenance of the nuisance at the EZ DOLLAR DISCOUNT STORE be removed and sold, pursuant to Penal Code section 11230;

6. The EZ DOLLAR DISCOUNT STORE be closed for one year, pursuant to Penal Code section 11230;

7. In the event that the Court does not order the EZ DOLLAR DISCOUNT STORE closed, all DEFENDANTS, their agents, officers, lessees, managers, representatives, employees, and anyone acting on their behalf, and their heirs and assignees be preliminarily and permanently enjoined from operating, conducting, using, occupying, or in any way permitting the use of the EZ DOLLAR DISCOUNT STORE as a nuisance pursuant to Penal Code sections 11225-11235;

8. DEFENDANTS be enjoined and restrained from occupying or operating, and/or allowing the occupation or operation of, the EZ DOLLAR DISCOUNT STORE while the conditions described in this Complaint exist and until all of the violations at the EZ DOLLAR DISCOUNT STORE have been abated;

9. DEFENDANTS be ordered to cause the EZ DOLLAR DISCOUNT STORE to conform to law, and maintain such structures and all parts thereof in accordance with law;

10. Pursuant to California Business and Professions Code sections 17203-17204, DEFENDANTS, their agents, officers, lessees, managers, representatives, employees, and anyone acting on their behalf, and their heirs, successors, and assignees be enjoined from operating, conducting, using, occupying, or in any way permitting the use of the EZ DOLLAR DISCOUNT STORE in the unlawful business practices described in this Complaint;

11. DEFENDANTS, and each of them, inclusive, be enjoined from spending, transferring, encumbering, or removing from California any money received from the EZ DOLLAR DISCOUNT STORE or in payment for the unlawful acts alleged in the Complaint;

Penalties

12. The Court impose civil penalties of up to $25,000.00 against each Defendant, pursuant to Penal Code section 11230;

13. DEFENDANTS be ordered to each pay a civil penalty of up to $2,500.00 for each act of unlawful competition, pursuant to Business and Professions Code section 17206;

Fees and Costs

14. DEFENDANTS be ordered to pay PLAINTIFFS ' reasonable attorney's fees and costs, including the cost of investigation and discovery, pursuant to Civil Code sections 3496(b) and 3496(c).

15. PLAINTIFFS be awarded their costs incurred herein pursuant to Code of Civil Procedure section 1032; and

16. The Court grant such other and further relief as this Court should find just and proper.

Date: April 10, 2025

DAVID CHIU
City Attorney
YVONNE R. MERÉ
Chief Deputy City Attorney
WADE CHOW
Chief Attorney
Neighborhood and Resident Safety Division
HUNTER SIMS
Deputy City Attorneys

By: _____
HUNTER W. SIMS III
Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO and
PEOPLE OF THE STATE OF CALIFORNIA

INDEX TO EXHIBITS

Exhibit	Description
A	NOV No. 202430228
B	NOV No. 202430228
C	NOE No. 2024-00949ENF
D	NOE No. 2024-00949ENF

EXHIBIT A

NOTICE OF VIOLATION

of the San Francisco Municipal Codes Regarding Unsafe, Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION
City and County of San Francisco
49 South Van Ness Av Suite#400
San Francisco, CA 94103

☒ FIRST NOTICE ☐ SECOND NOTICE ☐ OTHER:

COMPLAINT NUMBER: 202430228

ADDRESS 335 JONES ST — **DATE** 10/31/2024

OCCUPANCY/USE M, B — **BLOCK** 0333 **LOT** 004

CONST. TYPE 3 — **STORIES** 1 ☐ **BASEMENT**

☒ If checked, this information is based upon site-observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

OWNER / AGENT: FUNG URULA & CHAN REX TIN — **PHONE#:**

MAILING ADDRESS: 3197 HALYARD WAY **CITY** ELK GROVE **ZIP** 95758

PERSON CONTACTED @ SITE — **PHONE#:**

VIOLATION DESCRIPTION:

☒ WORK WITHOUT PERMIT (SFBC 103A); ☐ ADDITIONAL WORK-PERMIT REQUIRED (SFBC 106.4.7);
☐ EXPIRED PERMIT (SFBC 106A.4.4) ☐ CANCELLED PERMIT (SFBC 106.3.7) PA#: ;
☐ UNSAFE BUILDING (SFBC 102A); ☐ SEE ATTACHMENTS

	CODE / SECTION #
A TENDERLOIN BUSINESS INSPECTION REVEALED: ALUMINUM STOREFRONT REMOVED, NEW STOREFRONT INSTALLED. PARTITION IN RIGHT REAR OF RETAIL SPACE REMOVED. NO ACCESS GIVING TO ROOMS IN REAR OF UNIT.	103A
MONTHLY MONITORING FEE Section 110A TABLE 1A-k	

BC – Building Code HC – Housing Code PC – Plumbing Code [EC – Electrical Code] MC – Mechanical Code

CORRECTIVE ACTION:

☒ STOP ALL WORK SFBC 104.2.4

☒ FILE BUILDING PERMIT APPLICATION WITHIN 30 DAYS ☒ WITH PLANS) A Copy of This Notice Must Accompany the Permit Application.
☒ OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 90 DAYS, INCLUDING FINAL INSPECTION AND SIGNOFF.
☐ CORRECTION VIOLATIONS WITHIN _____DAYS. ☐ NO PERMIT REQUIRED.
☐ YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED _____, THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.
☑ FAILURE TO COMPLY WITH THIS NOTICE WILL CAUSE ABATEMENT PROCEEDING TO BEGIN. SEE REVERSE SIDE FOR ADDITIONAL WARNINGS.

IF UNABLE TO PROVIDE DOCUMENTATION OF LEGALITY OF PRESENT CONDITIION, OBTAIN PERMIT WITH PLANS AND PLANNING APPROVAL TO ADDRESS THE VIOLATION DESCRIPTION ABOVE. ELECTRICAL PERMIT REQUIRED. OBTAIN ALL REQUIRED INSPECTIONS TO ABATE NOV. PERMITS MUST STATE TO COMPLY WITH NOV. PROVIDE ACCESS TO THE INSPECTOR BELOW TO ALL AREAS WITHIN 15 DAYS.

INVESTIGATION FEE OR OTHER FEE WILL APPLY See reverse side for further explanation

☒ 9x Fee (Work w/o Permit after 9/1/60) ☐ 2x Fee (Work Exceeding Scope of Permit)
☐ OTHER: _____ ☐ Re-inspection Fee$ _____ ☐ No penalty (Work w/o permit prior to 9/1/60)

APPROX. DATE OF WORK W/O PERMIT N/A VALUE OF WORK PERFORMED W/O PERMITS $12,000

BY ORDER OF THE DIRECTOR, DEPARTMENT OF BUILDING INSPECTION

CONTACT INSPECTOR Chris Francis
(Inspector – Print Name)

OFFICE HOURS 8:00 AM TO 9:00 AM AND 3:00 PM TO 4:00 PM

PHONE # (628)652-3612 Chris.Francis@sfgov.org

By:(Inspector's Signature) Chris Francis

☐ Building Inspection Division
49 S. Van Ness Av, Suite# 400 (628) 652-3450
☐ Housing Inspection Division
49 S. Van Ness Av, Suite# 400 (628) 652-3700
☐ Electrical Inspection Division
49 S. Van Ness Av, Suite# 400 (628) 652-3450
☐ Plumbing Inspection Division
49 S. Van Ness Av, Suite# 400 (628) 652-3450
☐ Code Enforcement Division
49 S. Van Ness Av, Suite# 400 (628) 652-3430

CC: ☐ DCP ☐ EID ☐ PID ☐ BID ☐ HIS ☐ CED ☐ CPC ☐ DAD ☐ SFFD ☐ DPH ☐ RPC

Pursuant to SFBC 107A.5 and 106A.4.7 investigation fees are charged for work begun or performed without permits or for Work exceeding the scope of permits. Such fees may be appealed to the Board of Permit Appeals within 15 days of permit issuance, at 49 South Van Ness Ave., Suite 1475 (14th Floor). (628) 652-1150.

WARNING: Failure to take immediate action as required to correct the above violations will result in abatement proceedings by the Department of Building Inspection. If an Order of Abatement is recorded against this property, the owner will be billed or the property will be liened for all costs incurred in the code enforcement process from the posting of the first "Notice of Violation" until all costs are paid, SFBC 102A.2 & 110A.

WARNING: Section 204 of the San Francisco Housing Code provides for immediate fines of $100 for each instance of initial non-compliance, followed by $200 fines per violation for the second instance of non-compliance, up to a maximum of $7,500 per building. This section also provides for issuance of a criminal charge as a misdemeanor for each violation, resulting in fines of not less than $1,000 per day or six months' imprisonment or both.

WARNING: Anyone who derives rental income from housing determined by the Department of Building Inspection to be substandard cannot deduct from state personal income tax and bank and corporate income tax interest, depreciation or taxes attributable to such substandard structure. If correction work is not completed or being diligently, expeditiously and continuously prosecuted after six (6) months from the date of this notice, notification will be sent to the Franchise Tax Board as provided in Section 17264(6) of the Revenue and Taxation Code.

WARNING: Section 103A of the San Francisco Building Code provides for civil fines of up to $500 per day for any person who violates, disobeys, omits, neglects or refuses to comply with or opposes the execution of any provisions of this code. This section also provides for misdemeanor fines, if convicted, of up to $500 and/or imprisonment up to six months for each separate offense for every day such offense occurs·.

De acuerdo a las Secciones 107A.5 y 106A.4.7 de el Codigo de Construcción. de Edificios de San Francisco, gastos de investigación serán cobrados por trabajo empezado o realizado sin los debidos permisos o por trabajo que exceda el limite estipulado en los permisos. Dichos cobros pueden ser apelados ante la Junta de Apelaciones de Permisos (Board of Permit Appeals) dentro de los primeros quince dias de haberse obtenido el permiso. Las apelaciones se hacen en el 49 South Van Ness Ave., Suite 1475 (14th Floor), telefono (628) 652-1150.

ADVERTENCIA: Si no cumple con las acciones immediatas requeridas para corregir las infracciones, el Departamento de lnspección de Edificios tendra el derecho de iniciar el proceso de mitigación. Si una Orden de Mitigación es registrada contra dicha propiedad, los gastos incurridos durante el proceso de aplicación del código, desde la primera puesta del Aviso de Infracción hasta que todos los gastos esten pagados, se le cobraran al dueno del edificio o la propiedad sera embargada para recuperar dichos gastos. Referencia a la Sección 102A.2 y 110A de el Código de Construccion de Edificios**.**

ADVERTENCIA: La Sección 204 de el Código de Vivienda de San Francisco permite que se multe inmediatamente $100 por cada primer caso de inconformidad, seguida por una multa. de $200 por cada segunda infracción de incanformidad, aumentando hasta un maximo de $7,500 por cada edificio. Esta Sección tambien permite obtener cargos criminales como delito menor, resultando en multas de no menos de $1,000 diarios ó 6 meses de encarcelamiento o ambas sanciones.

ADVERTENCIA: Cualquier persona que reciba renta:por una vivienda que haya sido declarada que no satisface las normas requeridas por el Departamento de lnspección de.Edificios, no puede deducir del estado intereses personales, de banco o empresa, depreciacion o taxes atribuidos sobre dicha estructura. Si el trabajo de reparación no se termina o esta diligentemente, rapidamente y contua.mente acusado despues de seis(c) meses de la fecha de este aviso, se le enviara una notificación a la Junta de Concesion de lmpuestos (Franchise Tax Board) de acuerdo a la Sección 1264(c) del Código de lngresos e lmpuestos (Revenue and Taxation Code).

ADVERTENCIA: La Sección 103A de el Código de edificios de San Francisco impone multas civiles hasta de $500 por cada dia a cualquier persona que infrinja, desobedezca, omita, descuide, se niege a cumplir, resiste o se opone a la ejecucion de las provisiones de este codigo. Esta sección tambien impone multas per delito menor, si es declarado culpable, de hasta $500 o encarcelamiento de hasta 6 meses, o ambas sanciones, por cada una de las ofensas y por cada dia que dicha ofensa occura.

Sang-ayon sa SFBC 107A.5 at 106A.4.7 ang bayad sa pagsusuri ay sisingilin sa mga gusaling naumpisahan na o ginawa na walang permit o sa mga gawaing labis sa sakop ng permit. Ang gayong singil ay maaring iapela sa Board of Permit Appeals sa loob ng 15 na araw mula sa pag-isyu ng permit sa 49 South Van Ness Ave., suite 1475 (14th palapag). (628)652-1150.

BABALA: Ang kabiguan na gumawa ng aksiyon tulad ng kinakailangan upang iwasto ang mga nasabing paglabag ay magreresulta sa paglilitis ng abatement ng Kagawaran ng Inspeksyon ng Gusali. Kung meron Order of Abatement ang naitala laban sa isang ari-arian, ang may-ari ay sisingilin o di kaya ang ari-arian ay gagamitin na lien sa lahat ng mga gastos na natamo sa proseso ng pagpapatupad mula sa unang "Paunawa sa Paglabag" hanggang sa lahat ng gastos ay mabayaran, SFBC 102A.2 & 110A.

BABALA: Ang Seksyon 204 ng Housing Code ng San Francisco ay nagtatakda ng agad-agad na multa na $100 sa bawat halimbawa ng unang hindi pagsunod, at susundan ng multa na $200 sa bawat paglabag sa pangalawang hindi pagsunod, hanggang sa sukdulan na $7,500 sa bawat gusali. Ang seksyon na ito ay itinatakda na magsasampa rin ng kasong kriminal bilang isang misdemeanor sa bawat paglabag at magreresulta sa multa na hindi bababa ng $1,000 sa bawat araw o di kaya sa anim na buwan na pagkabilanggo o parehong ipapataw.

BABALA: Sinumang kumikita sa pag-upa ng pabahay na tinukoy ng Kagawaran ng Inspeksyon ng Gusali na substandard, ay hindi maaring ibawas ang ganoong kita sa buwis sa estado ng kitang personal, at gayundin sa buwis na kita sa interes sa bangko at korporasyon, at sa depresasyon o mga buwis na maiiugnay sa gusaling substandard. Kung ang Gawain sa pagwawasto ay hindi nakumpleto o hindi masigasig, mabilis at tuloy-tuloy ang paggawa matapos ang anim (6) na buwan mula sa petsa nitong paunawa, ay magpapadala ng abiso sa Franchise Tax Board na itinakda sa Seksyon 17264(6) ng Revenue and Taxation code.

BABALA: Ang Seksyon 103A ng Building Code ng San Francisco ay nagtatakda ng mga multang sibil hanggang sa $500 sa bawat araw sa sinumang lumabag, sumuway, magtanggal, magpabaya o tumangging sumunod o di kaya sumalungat sa pagpatupad ng mga probisyon nitong code. Nagpapataw din itong seksyon ng multang misdemeanor kapag nahatulan, ng hanggang sa $500 at o di kaya anim na buwan na pagkabilanggo sa bawat magkahiwalay na pagkasala para sa bawat araw na nangyari ang ganoong pagkasala.

根據《三藩市建築法規》（簡稱 SFBC）第 107.5 項和第106.4.7項條款的規定，對沒有許可證便已開始的工程和或正在進行的工程、或者超越許可範圍的工程，將收取調查費。當事人可以在許可證發出日起 15 天之內，調查費可以向許可上訴委員會提出上訴。該委員會 地址在 South Van Ness 街 49 號 4 樓，電話：(628) 652-3430。

警告：如不按照要求立即采取行動、以糾正上述違章行爲，將導致屋宇檢查局付諸强制糾

警告：任何人通過出租房屋獲得收入、而該房屋已被屋宇署查局定爲低於規定標準者，不能從加州個人所得稅、銀行和公司所得稅利息、以及與該低於規定標準的建築有關的折舊或稅款中扣除稅務。如果在此通告公布六個月後，改正工程沒有完成，或者沒有積極、迅速有效地進行，我們將根據《國家稅收法規》（即 Revenue & Taxation Code）第 1264 (c) 項條款，通知加州稅務委員會 (The Franchise Tax Board)。

EXHIBIT B

NOTICE OF VIOLATION

of the San Francisco Municipal Codes Regarding Unsafe,
Substandard or Noncomplying Structure or Land or Occupancy

DEPARTMENT OF BUILDING INSPECTION
City and County of San Francisco
49 South Van Ness Ave, Suite 400 San Francisco, CA

Notice: 1 COMPLAINT NUMBER: 202430228
DATE: 11/27/2024

ADDRESS : 335 JONES ST BLOCK : 0333 LOT : 004

OCCUPANCY/USE : M | MERCANTILE

☐ If checked, this information is based upons site-observation only. Further research may indicate that legal use is different. If so, a revised Notice of Violation will be issued.

ON SITE CONTACT : FUNG URSULA & CHAN REX TIN

VIOLATION DESCRIPTION:

[Y]	WORK WITHOUT PERMIT	103A
[ ]	ADDITIONAL WORK-PERMIT REQUIRED	106A.4.7
[ ]	EXPIRED PERMIT	106A.4.4
[ ]	CANCELLED PERMIT PA#:	106A.3.7
[ ]	UNSAFE BUILDING	102A
[ ]	SEE ATTACHMENTS	

CODE VIOLATION DESC : AMENDMENT TO NOV 202430228 DATED 10/31/2024 A TENDERLOIN BUSINESS INSPECTION REVEALED: ALUMINUM STOREFRONT REMOVED, NEW STOREFRONT INSTALLED. PARTITION IN RIGHT REAR OF RETAIL SPACE REMOVED. 2ND SITE INSPECTION OF REAR STORAGE ROOMS ON 11/20/24 REVEALED PARTITION DIVIDING STORAGE ROOMS REMOVED AND DOOR ADDED BETWEEN STORAGE ROOM AND STAIR AREA. WALL DAMAGED AT MEZZANINE EXPOSING UNPROTECTED WIRING. NEW CONDENSOR UNIT INSTALLED ON ROOF. Code/Section: SFBC 103A Monthly monitoring fee applies. Code/Section: SFBC 110A, Table 1A-K

CORRECTIVE ACTION:

- [Y] STOP ALL WORK SFBC 104.2.4
- [Y] FILE BUILDING PERMIT WITHIN 30 DAYS
- [Y] (WITH PLANS) A copy of this notice must accompany the permit application
- [Y] OBTAIN PERMIT WITHIN 60 DAYS AND COMPLETE ALL WORK WITHIN 90 DAYS, INCLUDING FINAL INSPECTION SIGNOFF.
- [ ] CORRECT VIOLATIONS WITHIN DAYS.
- [ ] NO PERMIT REQUIRED
- [ ] YOU FAILED TO COMPLY WITH THE NOTICE(S) DATED, THEREFORE THIS DEPT. HAS INITIATED ABATEMENT PROCEEDINGS.

FAILURE COMMENT DESCRIPTION : IF UNABLE TO PROVIDE DOCUMENTATION OF LEGALITY OF PRESENT CONDITIION, OBTAIN PERMIT WITH PLANS AND PLANNING APPROVAL TO ADDRESS THE VIOLATION DESCRIPTION ABOVE. ELECTRICAL AND PLUMBING PERMIT REQUIRED. OBTAIN ALL REQUIRED INSPECTIONS TO ABATE NOV. PERMITS MUST STATE TO COMPLY WITH NOV.

INVESTIGATION FEE OR OTHER FEE WILL APPLY

- [Y] 9x Permit Fee (Work w/o Permit after 9/1/60)
- [ ] 2x Permit Fee (Work Exceeding Scope of Permit)
- [ ] Other
- [ ] Reinspection Fee $
- [ ] NO penalty (Work w/o permit prior to 9/1/60)
- [ ] approx. date of work w/o permit
- [ ] value of work performed without permits $ 15000

CONTACT INSPECTOR : Chris Francis BID / 628-652-3612

EXHIBIT C

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

NOTICE OF ENFORCEMENT

RESPOND WITHIN 30 DAYS OF THIS NOTICE

Date:	November 27, 2024
Property Owner/s:	Fung Ursula & Chan Rex Tin 3197 Halyard Way Elk Grove, CA 95758
Business Owner:	EZ Dollar 335 Jones Street San Francisco, CA 94102
Record No.:	2024-009497ENF
Site Address:	335 Jones Street
Block/Lot:	0333/004
Zoning District:	RC-4, RESIDENTIAL- COMMERCIAL, HIGH DENSITY
Height and Bulk District:	80-T
Special Use District	Within 1/4 Mile of an Existing Fringe Financial Service North of Market Residential 1 Fringe Financial Services RUD Group Housing Special Use District Priority Equity Geographies SUD
Planning Code Violations:	Section 145.1(d)(3)(A): Security Gate Deployed During Business Hours Section 249.5(f): Tobacco Paraphernalia Establishment use Not Permitted
Enforcement Fee:	$1,725.00 Minimum Fee for Confirmed Violations
Time and Materials:	If the Cost of Reviewing a Confirmed Violation Exceeds the Minimum Fee Above, Additional Billing for Staff Time and Materials will be Charged.
Administrative Penalty:	Up to $1,000 per Day for Each Violation
Enforcement Planner:	Jia Hong Situ, 628-652-7384, JiaHong.Situ@sfgov.org

The Planning Department has received a complaint and has verified that a Planning Code violation exists on the above referenced property that must be resolved. As the property owner or the business owner, you are a Responsible Party. The purpose of this notice is to inform you about the Planning Code enforcement process so you can take appropriate action to bring this property into compliance with the Planning Code.

PROPERTY INFORMATION

Our records indicate that the subject property is currently authorized as Restaurant and General Grocery uses. The property is identified as a Category A – Historic Resource located within the Listed Uptown Tenderloin Historic District National and California Registers of Historic Districts, and subject to Planning Department preservation review.

DESCRIPTION OF VIOLATION

The Planning Department finds that the subject property has the following Planning Code violations:

(1) Section 145.1(d)(3)(A)- Storefront security gate was deployed during business hours.
(2) Section 249.5(f)- Any amount of tobacco paraphernalia is a Tobacco Paraphernalia Establishment use which is Not Permitted in the North of Market residential Special Use District.

Pursuant to Planning Code Section 145.1(d)(3)(A), existing security gates for a use established prior to September 06, 2022, may only be deployed when a business is not open to the public and does not exempt the use from any required building permit. As such, the security gates cannot be closed during business hours.

Pursuant to Planning Code Section 102,

> **Tobacco Paraphernalia Establishment use is defined** as "A Retail Sales and Service Use where more than 10% of the square footage of Occupied Floor Area, as defined in Section 102, or more than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the sale, distribution, delivery, furnishing, or marketing of Tobacco Paraphernalia from one person to another. For purposes of Sections 249.5, 719, 723, and 744 of this Code, however, Tobacco Paraphernalia Establishments shall mean retail uses where any Tobacco Paraphernalia is sold, distributed, delivered, furnished, or marketed from one person to another. **"Tobacco Paraphernalia" means** paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of tobacco, products prepared from tobacco, or controlled substances as defined in California Health and Safety Code Sections 11054, et seq. "Tobacco Paraphernalia" does not include lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco, cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by existing law."

Pursuant to Planning Code Section 249.5, in the North of Market Residential Special Use District, a special definition of "Tobacco Paraphernalia Establishments" applicable to the North of Market Residential Special Use District is set forth in Section 102. **Tobacco Paraphernalia Establishments are not permitted in the North of Market Residential Special Use District.** In the North of Market Residential Special Use District, a legal non-conforming Tobacco Paraphernalia Establishment shall be deemed abandoned after 180 days of non-use.

Failure to comply with any Planning Code provision constitutes a violation of the Planning Code and is subject to an enforcement process, pursuant to Planning Code Section 176.

PROPERTY HISTORY

	Date	Document	Description	Result	Notes
1	06/29/2012	BPA No. 201206293816	Change of use to general grocery, storefront alterations with outdoor seating on site.	Completed 11/21/2012	Issued 07/26/2012
2	02/28/2019	2019-002508MIS	Retail Sales and Services use dba. EZ Dollar in RC-4 District. No alcohol sales.	Approved 03/14/2019	

TIMELINE OF INVESTIGATION

On October 18, 2024, Planning Complaint No. 2024-009497ENF was accepted.

On October 29, 2024, during a City Attorney Task Force Inspection, Planning Department staff (Jia Hong Situ) conducted a site visit of the space dba. “EZ Discount” at the subject property and found the following:

1. Sale of Tobacco Paraphernalia products beyond the thresholds defined in Planning Code Section 102 and the establishment of a Tobacco Paraphernalia Establishment use, which is not permitted in the North of Market Residential Special Use District.
2. An accordion-style metal security gate at the storefront entrance deployed during business hours. The gate was partially opened and only allowed enough room to enter the entry door.

Three rooms in the rear were locked and access was not given.

On November 20, 2024, during a second City Task Force Inspection, Planning Department staff (Jia Hong Situ) conducted an inspection of the three rooms in the rear. Staff observed:

1. Sale of Tobacco Paraphernalia products and the establishment of a Tobacco Paraphernalia Establishment use, which is not permitted in the North of Market Residential Special Use District.
2. An accordion-style metal security gate at the storefront entrance deployed during business hours. The gate was partially opened and only allowed enough room to enter the entry door.

To date, the Planning Department has not received evidence to demonstrate that the above violation has been abated or a corrective action has been taken to bring the subject property into compliance with the Planning Code.

COMPLIANCE ACTIONS

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violations by taking the following steps:

1. **Comply with Planning Code Section 249.5** by removing all Tobacco Paraphernalia products and signage. A definition of Tobacco Paraphernalia products is provided above.

2. **Comply with Planning Code Section 145.1(d)(3)(A)** by not deploying the storefront security gate

during business hours. Not deploying the gate means that the gate is fully open.

3. **Provide photographic evidence** of the gate not deployed during business hours and the removal of all Tobacco Paraphernalia products from the store. A site visit may also be required to verify code compliance.

Please visit our website https://sfplanning.org/ for plan submittal guidelines https://sfplanning.org/resource/plan-submittal-guidelines, and the code enforcement process https://sfplanning.org/code-enforcement.

TIMELINE TO RESPOND

The timeline to respond to this Notice of Enforcement is **thirty (30) days** from the date of this notice. The corrective actions shall be taken as early as possible. Failure to respond to this notice by correcting the violation or demonstrating compliance with the Planning Code will result in the issuance of a Notice of Violation by the Zoning Administrator.

Please contact the Enforcement Planner with any questions, to submit evidence of correction, and discuss the corrective steps to abate the violation. Should you need additional time to respond to and/or abate the violation, please discuss this with the Enforcement Planner, who will assist you in developing a reasonable timeline.

NOTICE OF VIOLATION, ADMINISTRATIVE PENALTIES AND APPEAL RIGHTS

Please Note: This Notice of Enforcement is NOT a Notice of Violation.

Once a Notice of Violation is issued and finalized, administrative penalties of up to $1,000 per day along with any applicable additional penalties referenced above for each violation, may be assessed to the Responsible Party for each day beyond the timeline to respond provided in the Notice of Violation, if the violation is not abated.

If the Responsible Party believes that a Notice of Violation to correct a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available:

1) **Zoning Administrator Hearing.** The Responsible Party may request a Zoning Administrator Hearing under Planning Code Section 176 within thirty (30) days from the date of the Notice of Violation by submitting to the Enforcement Planner the Request for Zoning Administrator Hearing Form Request for Zoning Administrator (ZA) Hearing | SF Planning with supporting evidence to the Planning Department. The request will need to show cause as to why this Notice of Violation has been issued in error and should be rescinded. Provide the emails for all parties interested in attending this hearing. The Zoning Administrator shall render a decision on the Notice of Violation within thirty (30) days of such hearing. If the Responsible Party disagrees with the Zoning Administrator's decision, they may then appeal the Zoning Administrator's written decision to the Board of Appeals within thirty (30) days from the date of the decision.

2) **Board of Appeals.** The Responsible Party or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation within thirty (30) days from the date of the Notice of Violation to the Board of Appeals located at:

   49 South Van Ness Avenue, Suite 1475
   San Francisco, CA 94103
   Phone: (628) 652-1150
   Website: Board of Appeals | San Francisco (sf.gov)

   If Board of Appeals upholds the Notice of Violation the Board may not reduce the amount of penalty below $200 per day for each day the violation continues unabated.

Penalties are not assessed during the period when the matter is pending either before the Zoning Administrator or before the Board of Appeals. However, if the Responsible Party requests continuance of the appeal without a reasonable cause with the Board of Appeals, the penalties may still be assessed during the continuation period.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for "Time and Materials" to recover the cost of correcting the Planning Code violations. **Accordingly, the "Time and Materials" cost associated with the Code Enforcement investigation to date is currently $1,725.00. The Responsible Party is responsible to pay this fee for any confirmed violations.** Additional fees continue to accrue until the violation is abated. The fee is separate from the administrative penalties described above and is not appealable.

Failure to Pay Penalties and Fees

If the Responsible Party fails to pay the "Administrative Penalties" and "Time and Materials" fee to the Planning Department within thirty (30) days of the issuance of Notice of Penalty and Fee, the Zoning Administrator may take action to collect the "Penalties" and any unpaid "Time and Materials" fee owed to the Department, including:

1) Referral of the matter to the Bureau of Delinquent Revenue (BDR) under Chapter 10, Article V, Section 10.39 of the San Francisco Administrative Code. The BDR may apply a 25% surcharge for their collection services. Please note that such surcharge will be considered part of the cost of correcting the violation, and the Responsible Party will be responsible for such charges.

2) Initiation of lien proceedings under Chapter 10, Article XX, Section 10.230 et seq. of the San Francisco Administrative Code; and

3) Requesting the San Francisco Office of City Attorney to pursue collection of the "Administrative Penalties" and "Time and Materials" imposed against the Responsible Party in a civil action.

Other Applications Under Consideration

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation.

We want to assist you to bring the subject property into full compliance with the Planning Code. If you have any questions on the enforcement and appeal processes, or if you need additional time to correct the violations, please contact the Enforcement Planner noted above and we will assist you in developing a reasonable timeline.

CC:

Hunter W. Sims, Deputy City Attorney, City Attorney's Office, hunter.sims@sfcityatty.org
Kimia Haddadan, Tenderloin Community Equity Manager, Planning Department, kimia.haddadan@sfgov.org
Carl Malchow, Acting Chief Building Inspector, Department of Building Inspection, carl.malchow@sfgov.org
Chris Francis, Building Inspector, Department of Building Inspection, chris.francis@sfgov.org
Jimmy Guaiumi, Acting Senior Building Inspector, Department of Building Inspection, jimmy.guaiumi@sfgov.org
Gilbert Lam, Senior Building Inspector, Department of Building Inspection, gilbert.lam@sfgov.org

EXHIBIT D

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

NOTICE OF VIOLATION

RESPOND WITHIN 30 DAYS OF THIS NOTICE

Date:	January 31, 2025
Property Owners:	Fung Ursula & Chan Rex Tin 3197 Halyard Way Elk Grove, CA 95758
Business Owner:	EZ Dollar 335 Jones Street San Francisco, CA 94102
Record No.:	2024-009497ENF
Site Address:	335 Jones Street
Block/Lot:	0333/004
Zoning District:	RC-4, RESIDENTIAL- COMMERCIAL, HIGH DENSITY
Height and Bulk District:	80-T
Special Use Districts:	Within 1/4 Mile of an Existing Fringe Financial Service North of Market Residential 1 Fringe Financial Services RUD Group Housing Special Use District Priority Equity Geographies SUD
Planning Code Violations:	Section 145.1(d)(3)(A)- Security Gate Deployed During Business Hours Section 249.5(f)- Tobacco Paraphernalia Establishment use Not Permitted
Enforcement Fee:	$1,725.00 Minimum Fee for Confirmed Violations
Time and Materials:	If the Cost of Reviewing a Confirmed Violation Exceeds the Minimum Fee Above, Additional Billing for Staff Time and Materials will be Charged.
Administrative Penalty:	Up to $1,000 per Day for Each Violation
Enforcement Planner:	Jia Hong Situ, 628-652-7384, JiaHong.Situ@sfgov.org

The Planning Department has verified that a Planning Code violation exists on the above referenced property that must be resolved. As the property owner or the business owner, you are a Responsible Party. The purpose of this notice is to inform you about the Planning Code enforcement process so you can take appropriate

action to bring this property into compliance with the Planning Code.

PROPERTY INFORMATION

Our records indicate that the subject property is currently authorized as Restaurant and General Grocery uses. The property is identified as a Category A – Historic Resource located within the Listed Uptown Tenderloin Historic District National and California Registers of Historic Districts, and subject to Planning Department preservation review.

DESCRIPTION OF VIOLATION

The Planning Department finds that the subject property has the following Planning Code violations:

(1) Section 145.1(d)(3)(A)- Storefront security gate was deployed during business hours.
(2) Section 249.5(f)- Any amount of tobacco paraphernalia is a Tobacco Paraphernalia Establishment use which is Not Permitted in the North of Market residential Special Use District.

Pursuant to Planning Code Section 145.1(d)(3)(A), existing security gates for a use established prior to September 06, 2022, may only be deployed when a business is not open to the public and does not exempt the use from any required building permit. As such, the security gates cannot be closed during business hours.

Pursuant to Planning Code Section 102,

> **Tobacco Paraphernalia Establishment use is defined** as "A Retail Sales and Service Use where more than 10% of the square footage of Occupied Floor Area, as defined in Section 102, or more than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the sale, distribution, delivery, furnishing, or marketing of Tobacco Paraphernalia from one person to another. For purposes of Sections 249.5, 719, 723, and 744 of this Code, however, Tobacco Paraphernalia Establishments shall mean retail uses where any Tobacco Paraphernalia is sold, distributed, delivered, furnished, or marketed from one person to another. **"Tobacco Paraphernalia" means** paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of tobacco, products prepared from tobacco, or controlled substances as defined in California Health and Safety Code Sections 11054, et seq. "Tobacco Paraphernalia" does not include lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco, cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by existing law."

Pursuant to Planning Code Section 249.5, in the North of Market Residential Special Use District, a special definition of "Tobacco Paraphernalia Establishments" applicable to the North of Market Residential Special Use District is set forth in Section 102. **Tobacco Paraphernalia Establishments are not permitted in the North of Market Residential Special Use District.** In the North of Market Residential Special Use District, a legal non-conforming Tobacco Paraphernalia Establishment shall be deemed abandoned after 180 days of non-use.

Failure to comply with any Planning Code provision constitutes a violation of the Planning Code and is subject to an enforcement process, pursuant to Planning Code Section 176.

PROPERTY HISTORY

	Date	Document	Description	Result	Notes
1	06/29/2012	BPA No. 201206293816	Change of use to general grocery, storefront alterations with outdoor seating on site.	Completed 11/21/2012	Issued 07/26/2012
2	02/28/2019	2019-002508MIS	Retail Sales and Services use dba. EZ Dollar in RC-4 District. No alcohol sales.	Approved 03/14/2019	

TIMELINE OF INVESTIGATION

On October 18, 2024, Planning Complaint No. 2024-009497ENF was accepted.

On October 29, 2024, during a City Attorney Task Force Inspection, Planning Department staff (Jia Hong Situ) conducted a site visit of the ground floor retail space, occupied by a business tenant (DBA "EZ Dollar") at the subject property and found the following:

1. Sale of Tobacco Paraphernalia products beyond the thresholds defined in Planning Code Section 102 and the establishment of a Tobacco Paraphernalia Establishment use, which is not permitted in the North of Market Residential Special Use District.
2. An accordion-style metal security gate at the storefront entrance deployed during business hours. The gate was partially opened and only allowed enough room to enter the entry door.

Three rooms in the rear were locked and access was not given.

On November 20, 2024, during a second City Task Force Inspection, Planning Department staff (Jia Hong Situ) conducted a site visit of the space dba. "EZ Dollar" at the subject property, including the three rooms in the rear and the roof. Staff observed the same issues as the first inspection and no additional code violation.

On November 27, 2024, the Planning Department sent you a Notice of Enforcement informing you about the violation and the abatement process. In that notice, you were advised to take corrective action and provide evidence of compliance to the Planning Department.

To date, the Planning Department has not received evidence to demonstrate that the above violation has been abated or a corrective action has been taken to bring the subject property into compliance with the Planning Code.

COMPLIANCE ACTIONS

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violations by taking the

following steps:

1. **Comply with Planning Code Section 249.5** by removing all Tobacco Paraphernalia products and signage. A definition of Tobacco Paraphernalia products is provided above.

2. **Comply with Planning Code Section 145.1(d)(3)(A)** by not deploying the storefront security gate during business hours. Not deploying the gate means that the gate is fully open.

3. **Provide photographic evidence** of the gate not deployed during business hours and the removal of all Tobacco Paraphernalia products from the store. A site visit may also be required to verify code compliance.

Please visit our website https://sfplanning.org/ for plan submittal guidelines https://sfplanning.org/resource/plan-submittal-guidelines, and the code enforcement process https://sfplanning.org/code-enforcement.

APPEAL RIGHTS

If the Responsible Party believes that this Notice of Violation to correct a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available:

1) **Zoning Administrator Hearing.** The Responsible Party may request a Zoning Administrator Hearing under Planning Code Section 176 within **thirty (30) days** from the date of this Notice of Violation by submitting to the Enforcement Planner the Request for Zoning Administrator Hearing Form Request for Zoning Administrator (ZA) Hearing | SF Planning with supporting evidence to the Planning Department. The request will need to show cause as to why this Notice of Violation has been issued in error and should be rescinded. Provide the emails for all parties interested in attending this hearing. The Zoning Administrator shall render a decision on the Notice of Violation within thirty (30) days of such hearing. If the Responsible Party disagrees with the Zoning Administrator's decision, they may then appeal the Zoning Administrator's written decision to the Board of Appeals within **thirty (30) days** from the date of the decision.

2) **Board of Appeals.** The Responsible Party or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation within **thirty (30) days** from the date of the Notice of Violation to the Board of Appeals located at:

   49 South Van Ness Avenue, Suite 1475
   San Francisco, CA 94103
   Phone: (628) 652-1150
   Email: boardofappeals@sfgov.org
   Website: www.sfgov.org/bdappeal

   If Board of Appeals upholds the Notice of Violation the Board may not reduce the amount of penalty below $200 per day for each day the violation continues unabated.

Penalties are not assessed during the period when the matter is pending either before the Zoning Administrator or before the Board of Appeals**.** However, if the Responsible Party requests continuance of the appeal without a reasonable cause with the Board of Appeals, the penalties may still be assessed during the continuation period.

TIMELINE TO RESPOND AND ADMINISTRATIVE PENALTIES

If the Responsible Party does not request an appeal process and does not take corrective action to abate the violation within thirty (30) days, this Notice of Violation will become final. Beginning on the following day, administrative penalties of up to $1,000 per day for each violation will be assessed to the Responsible Party and will continue to accrue for each day the violation continues without corrective action.

If penalties are assessed and begin to accrue, the Planning Department will issue a Notice of Penalty and Fee. The accrued penalty amount shall be paid within thirty (30) days from the issuance date of that Notice. Please be advised that payment of accrued penalties does not excuse failure to correct the violation or bar further enforcement action. Additional penalties will continue to accrue until corrective action is taken to abate the violation.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(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 $1,725.00 for "Time and Materials" cost associated with the Code Enforcement investigation to date for the confirmed violations.** Additional fees continue to accrue until the violation is abated. The fee is separate from the administrative penalties described above and is not appealable. For information on how to pay, contact the enforcement planner listed above.

FAILURE TO PAY PENALTIES AND FEES

If the Responsible Party fails to pay the "Administrative Penalties" and "Time and Materials" fee to the Planning Department within thirty (30) days of the issuance of Notice of Penalty and Fee, the Zoning Administrator may take action to collect the "Penalties" and any unpaid "Time and Materials" fee owed to the Department, including:

1) Referral of the matter to the Bureau of Delinquent Revenue (BDR) under Chapter 10, Article V, Section 10.39 of the San Francisco Administrative Code. The BDR may apply a 25% surcharge for their collection services. Please note that such surcharge will be considered part of the cost of correcting the violation, and the Responsible Party will be responsible for such charges.

2) Initiation of lien proceedings under Chapter 10, Article XX, Section 10.230 et seq. of the San Francisco Administrative Code; and

3) Requesting the San Francisco Office of City Attorney to pursue collection of the "Administrative

Penalties" and "Time and Materials" imposed against the Responsible Party in a civil action.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation.

We want to assist you to bring the subject property into full compliance with the Planning Code. If you have any questions on the enforcement and appeal processes, or if you need additional time to correct the violations, please contact the Enforcement Planner noted above and we will assist you in developing a reasonable timeline.

RECORDATION OF ORDER OF ABATEMENT

Ninety (90) days following the finalization of this Notice of Violation as described under the Administrative Penalties of this Notice, an Order of Abatement may be recorded against the property's records in the Office of the Recorder of the City and County of San Francisco.

The obligation to correct the violations as set forth in the Notice of Violation, Notice of Violation and Penalty Decision, or Notice of Penalty and Fee shall be Planning Code conditions pursuant to Planning Code Section 174 and shall run with title to the property. Further, such recordation shall provide notice to each Responsible Party and any subsequent "successor" or "assign of title" to the property that the failure to perform such obligations is a violation of the Planning Code and may be enforced pursuant to Planning Code Section 176.

Any fees associated with recordation and/or revocation of an Order of Abatement will be assessed to the Responsible Party and added to the "Time and Materials" fee discussed above. All daily penalties assessed and/or Time and Materials incurred is required to be paid prior to the revocation of the Order of Abatement.

Sincerely,

Kelly Wong
Acting Zoning Administrator

Enc.:
Notice of Enforcement dated November 27, 2024.

CC: Hunter W. Sims, Deputy City Attorney, City Attorney's Office, hunter.sims@sfcityatty.org
Kimia Haddadan, Tenderloin Community Equity Manager, Planning Department, kimia.haddadan@sfgov.org

Chris Francis, Building Inspector, Department of Building Inspection, chris.francis@sfgov.org
Jimmy Guaiumi, Acting Senior Building Inspector, Department of Building Inspection, jimmy.guaiumi@sfgov.org
Gilbert Lam, Senior Building Inspector, Department of Building Inspection, gilbert.lam@sfgov.org

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

NOTICE OF ENFORCEMENT

RESPOND WITHIN 30 DAYS OF THIS NOTICE

Date:	November 27, 2024
Property Owner/s:	Fung Ursula & Chan Rex Tin 3197 Halyard Way Elk Grove, CA 95758
Business Owner:	EZ Dollar 335 Jones Street San Francisco, CA 94102
Record No.:	2024-009497ENF
Site Address:	335 Jones Street
Block/Lot:	0333/004
Zoning District:	RC-4, RESIDENTIAL- COMMERCIAL, HIGH DENSITY
Height and Bulk District:	80-T
Special Use District	Within 1/4 Mile of an Existing Fringe Financial Service North of Market Residential 1 Fringe Financial Services RUD Group Housing Special Use District Priority Equity Geographies SUD
Planning Code Violations:	Section 145.1(d)(3)(A): Security Gate Deployed During Business Hours Section 249.5(f): Tobacco Paraphernalia Establishment use Not Permitted
Enforcement Fee:	$1,725.00 Minimum Fee for Confirmed Violations
Time and Materials:	If the Cost of Reviewing a Confirmed Violation Exceeds the Minimum Fee Above, Additional Billing for Staff Time and Materials will be Charged.
Administrative Penalty:	Up to $1,000 per Day for Each Violation
Enforcement Planner:	Jia Hong Situ, 628-652-7384, JiaHong.Situ@sfgov.org

The Planning Department has received a complaint and has verified that a Planning Code violation exists on the above referenced property that must be resolved. As the property owner or the business owner, you are a Responsible Party. The purpose of this notice is to inform you about the Planning Code enforcement process so you can take appropriate action to bring this property into compliance with the Planning Code.

PROPERTY INFORMATION

Our records indicate that the subject property is currently authorized as Restaurant and General Grocery uses. The property is identified as a Category A – Historic Resource located within the Listed Uptown Tenderloin Historic District National and California Registers of Historic Districts, and subject to Planning Department preservation review.

DESCRIPTION OF VIOLATION

The Planning Department finds that the subject property has the following Planning Code violations:

(1) Section 145.1(d)(3)(A)- Storefront security gate was deployed during business hours.
(2) Section 249.5(f)- Any amount of tobacco paraphernalia is a Tobacco Paraphernalia Establishment use which is Not Permitted in the North of Market residential Special Use District.

Pursuant to Planning Code Section 145.1(d)(3)(A), existing security gates for a use established prior to September 06, 2022, may only be deployed when a business is not open to the public and does not exempt the use from any required building permit. As such, the security gates cannot be closed during business hours.

Pursuant to Planning Code Section 102,

> **Tobacco Paraphernalia Establishment use is defined** as "A Retail Sales and Service Use where more than 10% of the square footage of Occupied Floor Area, as defined in Section 102, or more than 10 linear feet of display area projected to the floor, whichever is less, is dedicated to the sale, distribution, delivery, furnishing, or marketing of Tobacco Paraphernalia from one person to another. For purposes of Sections 249.5, 719, 723, and 744 of this Code, however, Tobacco Paraphernalia Establishments shall mean retail uses where any Tobacco Paraphernalia is sold, distributed, delivered, furnished, or marketed from one person to another. **"Tobacco Paraphernalia" means** paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingesting, inhaling, or otherwise introducing into the body of tobacco, products prepared from tobacco, or controlled substances as defined in California Health and Safety Code Sections 11054, et seq. "Tobacco Paraphernalia" does not include lighters, matches, cigarette holders, any device used to store or preserve tobacco, tobacco, cigarettes, cigarette papers, cigars, or any other preparation of tobacco that is permitted by existing law."

Pursuant to Planning Code Section 249.5, in the North of Market Residential Special Use District, a special definition of "Tobacco Paraphernalia Establishments" applicable to the North of Market Residential Special Use District is set forth in Section 102. **Tobacco Paraphernalia Establishments are not permitted in the North of Market Residential Special Use District.** In the North of Market Residential Special Use District, a legal non-conforming Tobacco Paraphernalia Establishment shall be deemed abandoned after 180 days of non-use.

Failure to comply with any Planning Code provision constitutes a violation of the Planning Code and is subject to an enforcement process, pursuant to Planning Code Section 176.

PROPERTY HISTORY

	Date	Document	Description	Result	Notes
1	06/29/2012	BPA No. 201206293816	Change of use to general grocery, storefront alterations with outdoor seating on site.	Completed 11/21/2012	Issued 07/26/2012
2	02/28/2019	2019-002508MIS	Retail Sales and Services use dba. EZ Dollar in RC-4 District. No alcohol sales.	Approved 03/14/2019	

TIMELINE OF INVESTIGATION

On October 18, 2024, Planning Complaint No. 2024-009497ENF was accepted.

On October 29, 2024, during a City Attorney Task Force Inspection, Planning Department staff (Jia Hong Situ) conducted a site visit of the space dba. “EZ Discount” at the subject property and found the following:

1. Sale of Tobacco Paraphernalia products beyond the thresholds defined in Planning Code Section 102 and the establishment of a Tobacco Paraphernalia Establishment use, which is not permitted in the North of Market Residential Special Use District.
2. An accordion-style metal security gate at the storefront entrance deployed during business hours. The gate was partially opened and only allowed enough room to enter the entry door.

Three rooms in the rear were locked and access was not given.

On November 20, 2024, during a second City Task Force Inspection, Planning Department staff (Jia Hong Situ) conducted an inspection of the three rooms in the rear. Staff observed:

1. Sale of Tobacco Paraphernalia products and the establishment of a Tobacco Paraphernalia Establishment use, which is not permitted in the North of Market Residential Special Use District.
2. An accordion-style metal security gate at the storefront entrance deployed during business hours. The gate was partially opened and only allowed enough room to enter the entry door.

To date, the Planning Department has not received evidence to demonstrate that the above violation has been abated or a corrective action has been taken to bring the subject property into compliance with the Planning Code.

COMPLIANCE ACTIONS

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violations by taking the following steps:

1. **Comply with Planning Code Section 249.5** by removing all Tobacco Paraphernalia products and signage. A definition of Tobacco Paraphernalia products is provided above.

2. **Comply with Planning Code Section 145.1(d)(3)(A)** by not deploying the storefront security gate

during business hours. Not deploying the gate means that the gate is fully open.

3. **Provide photographic evidence** of the gate not deployed during business hours and the removal of all Tobacco Paraphernalia products from the store. A site visit may also be required to verify code compliance.

Please visit our website https://sfplanning.org/ for plan submittal guidelines https://sfplanning.org/resource/plan-submittal-guidelines, and the code enforcement process https://sfplanning.org/code-enforcement.

TIMELINE TO RESPOND

The timeline to respond to this Notice of Enforcement is **thirty (30) days** from the date of this notice. The corrective actions shall be taken as early as possible. Failure to respond to this notice by correcting the violation or demonstrating compliance with the Planning Code will result in the issuance of a Notice of Violation by the Zoning Administrator.

Please contact the Enforcement Planner with any questions, to submit evidence of correction, and discuss the corrective steps to abate the violation. Should you need additional time to respond to and/or abate the violation, please discuss this with the Enforcement Planner, who will assist you in developing a reasonable timeline.

NOTICE OF VIOLATION, ADMINISTRATIVE PENALTIES AND APPEAL RIGHTS

Please Note: This Notice of Enforcement is NOT a Notice of Violation.

Once a Notice of Violation is issued and finalized, administrative penalties of up to $1,000 per day along with any applicable additional penalties referenced above for each violation, may be assessed to the Responsible Party for each day beyond the timeline to respond provided in the Notice of Violation, if the violation is not abated.

If the Responsible Party believes that a Notice of Violation to correct a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available:

1) **Zoning Administrator Hearing.** The Responsible Party may request a Zoning Administrator Hearing under Planning Code Section 176 within thirty (30) days from the date of the Notice of Violation by submitting to the Enforcement Planner the Request for Zoning Administrator Hearing Form Request for Zoning Administrator (ZA) Hearing | SF Planning with supporting evidence to the Planning Department. The request will need to show cause as to why this Notice of Violation has been issued in error and should be rescinded. Provide the emails for all parties interested in attending this hearing. The Zoning Administrator shall render a decision on the Notice of Violation within thirty (30) days of such hearing. If the Responsible Party disagrees with the Zoning Administrator's decision, they may then appeal the Zoning Administrator's written decision to the Board of Appeals within thirty (30) days from the date of the decision.

2) **Board of Appeals.** The Responsible Party or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation within thirty (30) days from the date of the Notice of Violation to the Board of Appeals located at:

   49 South Van Ness Avenue, Suite 1475
   San Francisco, CA 94103
   Phone: (628) 652-1150
   Website: Board of Appeals | San Francisco (sf.gov)

   If Board of Appeals upholds the Notice of Violation the Board may not reduce the amount of penalty below $200 per day for each day the violation continues unabated.

Penalties are not assessed during the period when the matter is pending either before the Zoning Administrator or before the Board of Appeals. However, if the Responsible Party requests continuance of the appeal without a reasonable cause with the Board of Appeals, the penalties may still be assessed during the continuation period.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for "Time and Materials" to recover the cost of correcting the Planning Code violations. **Accordingly, the "Time and Materials" cost associated with the Code Enforcement investigation to date is currently $1,725.00. The Responsible Party is responsible to pay this fee for any confirmed violations.** Additional fees continue to accrue until the violation is abated. The fee is separate from the administrative penalties described above and is not appealable.

Failure to Pay Penalties and Fees

If the Responsible Party fails to pay the "Administrative Penalties" and "Time and Materials" fee to the Planning Department within thirty (30) days of the issuance of Notice of Penalty and Fee, the Zoning Administrator may take action to collect the "Penalties" and any unpaid "Time and Materials" fee owed to the Department, including:

1) Referral of the matter to the Bureau of Delinquent Revenue (BDR) under Chapter 10, Article V, Section 10.39 of the San Francisco Administrative Code. The BDR may apply a 25% surcharge for their collection services. Please note that such surcharge will be considered part of the cost of correcting the violation, and the Responsible Party will be responsible for such charges.

2) Initiation of lien proceedings under Chapter 10, Article XX, Section 10.230 et seq. of the San Francisco Administrative Code; and

3) Requesting the San Francisco Office of City Attorney to pursue collection of the "Administrative Penalties" and "Time and Materials" imposed against the Responsible Party in a civil action.

Other Applications Under Consideration

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation.

We want to assist you to bring the subject property into full compliance with the Planning Code. If you have any questions on the enforcement and appeal processes, or if you need additional time to correct the violations, please contact the Enforcement Planner noted above and we will assist you in developing a reasonable timeline.

CC:

Hunter W. Sims, Deputy City Attorney, City Attorney's Office, hunter.sims@sfcityatty.org
Kimia Haddadan, Tenderloin Community Equity Manager, Planning Department, kimia.haddadan@sfgov.org
Carl Malchow, Acting Chief Building Inspector, Department of Building Inspection, carl.malchow@sfgov.org
Chris Francis, Building Inspector, Department of Building Inspection, chris.francis@sfgov.org
Jimmy Guaiumi, Acting Senior Building Inspector, Department of Building Inspection, jimmy.guaiumi@sfgov.org
Gilbert Lam, Senior Building Inspector, Department of Building Inspection, gilbert.lam@sfgov.org