

May 14, 2026

QUESTION for the SF Board of Supervisors:

Should the Supervisors ratify DBI's unconstitutional searches/seizures of private property and unlawful violation notices for safe property, which violate our Constitutions, State Law, municipal code, and Code Enforcement's legal duty, and which violate the public interest in safe property,

OR

Should the Supervisors instead ensure that Code Enforcement searches/seizures of private property and violation notices *adhere to Constitutional and Statutory Safeguards* to protect and reinstate fundamental rights of Substantive Due Process, Procedural Due Process, and Equal Protection, to protect fundamental interests of property (dominion | privacy) and liberty from unlawful deprivation by SF Code Enforcement?

INTRODUCTION

SF Code Enforcement, managed by the City Attorney, maintains a categorical deficiency of substantive and procedural due process, establishing a program centered, not on the public interest of safety (*Substantive Due Process*), but rather centered on the interest of generating income by conducting unconstitutional searches/seizures and falsifying evidence to criminalize safe property (*annihilating Substantive Due Process*) to justify gratuitous and unlawful mandates for permits, variances, hearings, and abatements *despite safe (code-compliant)*

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property, irreparably harming the public. This corruption not only deprives the public of their constitutional rights of Substantive and Procedural Due Process and Equal Protection, but it also deprives fundamental interests of liberty and property (dominion | privacy) without any public benefit from such deprivation, condemning citizens guilty-until-proven-innocent without any ability to prove innocence, a catastrophic failure of democracy.

SF Code Enforcement agents violate the Fourth, Fifth and Fourteenth Amendments, and [CA Constitution Article I §7\(a\)](#), when they willfully deny due process and equal protection by (1) conducting government searches without substantive due process of probable cause of unsafe property, without procedural due process of warrant or consent, and without due process confines in area and duration, by (2) falsifying evidence to allege, convict, and sentence innocent citizens for maintaining safe property, by (3) falsifying evidence to convert private property to a City-owned unpaved sidewalk leading to nowhere to further deprive citizens their liberty and property (dominion | privacy), by (4) convicting some safe property without convicting all safe property in violation of equal protection, and by (5) maintaining a categorical deficiency of due process to challenge Code Enforcement searches and refute Code Enforcement convictions for non-existent crime a further violation of equal protection, which are crimes, [CA Penal](#)

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[Code §829.5,¹ CA Evidence Code §668,² CA Evidence Code §669,³ 18 U.S. Code §242,⁴ 18 U.S.C. §241,⁵ 42 U.S. Code §1983,⁶ 42](#)

¹ The City’s Code Enforcement Officers have “enforcement authority for health, safety, and welfare requirements.”

² “An unlawful intent is presumed from the doing of an unlawful act.”

³ ‘The failure of a code enforcement agent to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

⁴ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Common wealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

⁵ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

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[U.S. Code §1981](#),⁷ [42 U.S. Code §1985](#),⁸ [18 U.S. Code §1962](#),⁹ and [CA Civil Code §52.1](#).¹⁰

Our case demonstrates not merely one deprivation of property (dominion | privacy) from a Code Enforcement search & seizure void substantive due process of a probable cause of unsafe property, void procedural due process of a warrant or consent, void due process confines in area and duration, and void any procedural due process hearing to challenge the lawfulness of such a search/seizure, but more profoundly demonstrates *a pattern* of Code Enforcement deprivation of property (dominion | privacy) from searches & seizures by multiple agencies on more than one occasion that further defy the public interest in safe

⁷ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

⁸ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

⁹ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

¹⁰ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

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property by falsifying evidence from the search/seizure to convict innocent citizens maintaining safe property of non-existent crime and to convert private land to city property, depriving/defying the mandatory Constitutional provision of due process and equal protection, and Code Enforcement Officers' legal duty to protect the public from unsafe property, [CA Penal Code §829.5](#),¹¹ [CA Evidence Code §668](#),¹² [CA Evidence Code §669](#),¹³ [18 U.S. Code §242](#),¹⁴ [18 U.S.C. §241](#),¹⁵ [42 U.S. Code §1983](#),¹⁶ [42 U.S. Code](#)

¹¹ The City's Code Enforcement Officers have "enforcement authority for health, safety, and welfare requirements."

¹² "An unlawful intent is presumed from the doing of an unlawful act."

¹³ 'The failure of a code enforcement agent to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.'

¹⁴ "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both."

¹⁵ "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both."

¹⁶ "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

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[§1981](#),¹⁷ [42 U.S. Code §1985](#),¹⁸ [18 U.S. Code §1962](#),¹⁹ and [CA Civil Code §52.1](#).²⁰

And the City Attorney's management of, participation in, and defense of this *pattern* of Code Enforcement deprivation of property (dominion | privacy) from government searches & seizures by multiple agencies on more than one occasion that defy the public interest in safe property, falsify evidence from the search/seizure to convict innocent citizens maintaining safe property of non-existent crime, and convert private land to city property, deprives/defies the mandatory Constitutional provision of due process and equal protection, and attorneys' legal duty 'to

¹⁷ "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens."

¹⁸ "If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."

¹⁹ "It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise."

²⁰ "Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b)."

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prevent corrupt proceedings,' [CA BPC §6068](#),²¹ [CA Evidence Code §668](#),²² [CA Evidence Code §669](#),²³ [18 U.S. Code §242](#),²⁴ [18 U.S.C.](#)

²¹ "It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed."

²² "An unlawful intent is presumed from the doing of an unlawful act."

²³ "The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted."

²⁴ "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Common wealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both."

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[§241](#),²⁵ [42 U.S. Code §1983](#),²⁶ [42 U.S. Code §1981](#),²⁷ [42 U.S. Code §1985](#),²⁸ [18 U.S. Code §1962](#),²⁹ and [CA Civil Code §52.1](#).³⁰

The City Attorney violates the Fourth, Fifth and Fourteenth Amendments, and [CA Constitution Article I §7\(a\)](#), when they willfully deny due process and equal protection by (1)

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²⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

²⁷ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

²⁸ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

²⁹ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

³⁰ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

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authorizing Code Enforcement searches without substantive due process of probable cause, without procedural due process of warrant or consent, and without due process confines in area and duration, by (2) authorizing Code Enforcement convictions without any evidence of any crime, by (3) maintaining a categorical deficiency of due process to challenge Code Enforcement searches and refute Code Enforcement convictions for non-existent crime, by (4) acting as judge and respondent for city claims and Code Enforcement proceedings, and by (5) maintaining a financial interest in Code Enforcement searches/seizures, Code Enforcement convictions, Code Enforcement claims, and Code Enforcement proceedings, which are crimes, [CA BPC §6068](#),³¹ [CA Evidence Code §668](#),³² [CA](#)

³¹ “It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.”

³² “An unlawful intent is presumed from the doing of an unlawful act.”

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[Evidence Code §669](#),³³ [18 U.S. Code §242](#),³⁴ [18 U.S.C. §241](#),³⁵ [42 U.S. Code §1983](#),³⁶ [42 U.S. Code §1981](#),³⁷ [42 U.S. Code §1985](#),³⁸

³³ ‘The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

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³⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

³⁷ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

³⁸ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

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[18 U.S. Code §1962](#),³⁹ and [CA Civil Code §52.1](#).⁴⁰ And the City Attorney further violates the Fourth, Fifth and Fourteenth Amendments, and [CA Constitution Article I §7\(a\)](#) when the City Attorney willfully denies due process and equal protection during trial court proceedings by (6) representing conflicting interests in the same litigation, by (7) demurring the *only* available and *necessary* due process, by (8) manufacturing financial barriers to accessing writ relief, by (9) submitting falsified evidence/law, and by (10) denying/defying proper procedural due process, which are crimes, [CA BPC §6068](#),⁴¹ [CA Evidence Code §668](#),⁴² [CA Evidence](#)

³⁹ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

⁴⁰ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

⁴¹ “It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.”

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[Code §669](#),⁴³ [18 U.S. Code §242](#),⁴⁴ [18 U.S.C. §241](#),⁴⁵ [42 U.S. Code §1983](#),⁴⁶ [42 U.S. Code §1981](#),⁴⁷ [42 U.S. Code §1985](#),⁴⁸ [18 U.S. Code §1962](#),⁴⁹ and [CA Civil Code §52.1](#).⁵⁰

⁴³ ‘The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

⁴⁴ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Common wealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

⁴⁵ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

⁴⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

⁴⁷ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

⁴⁸ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

⁴⁹ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

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Our case was filed with SF Superior Court in August 2022 after unsuccessful requests for due process for Code Enforcement's unlawful searches/seizures and violation notices, of the City Attorney (Exhibit EE, QQ, RR), Code Enforcement leadership (Exhibits F, G, H, I, K, GG, II, AF, Appendix DBI Proceeding), and the SF Board of Appeals (Exhibits FF, HH). Despite Code Enforcement's *categorical deficiency of due process* to challenge unlawful searches/seizures and to refute unlawful convictions for non-existent property crime, the City Attorney elicited an erroneous Younger Abstention, [*Younger v. Harris*, 401 US 37 - Supreme Court 1971](#), further denying due process, and forcing us to undergo City proceedings that (1) lack jurisdiction⁵¹ to cure unlawful searches/seizures and unlawful violation notices, and (2) lack essential elements of a 'fair hearing' as (a) Code Enforcement agents falsify evidence (Sixth Cause of Action), [*Devereaux v. Abbey*, 263 F. 3d 1070 - Court of Appeals, 9th](#)

⁵⁰ "Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b)."

⁵¹ BOA answers questions about permits and Zoning Administrator decisions, [SF City Charter §4.106](#), AAB answers questions about abatements, [SF Building Code §105A.2](#), and DBI Director's hearings answer questions about why mandated permits remain unresolved, [SFBC §102A.5](#). None of these hearings have jurisdiction to determine if City searches are constitutional nor if violation notices are lawful. (see Appendix Proceedings)

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[Circuit 2001](#),⁵² [Mooney v. Holohan, 294 US 103 - Supreme Court 1935](#),⁵³ [Thompson v. Louisville, 362 US 199 - Supreme Court 1960](#),⁵⁴ [Jackson v. Virginia, 443 US 307 - Supreme Court 1979](#),⁵⁵ and (b) the City Attorney is both respondent and judge during Board of Appeals and Abatement Appeals Board hearings, occupying two practically and seriously inconsistent positions further negating due process, [Tumey v. Ohio, 273 US 510 - Supreme Court 1927](#),⁵⁶ [CA CCP §1094.5](#),⁵⁷ and maintaining a financial interest in administrative proceeding outcomes even further negating due process, [Gov. Code §§ 87100](#),⁵⁸ [87103](#).⁵⁹

⁵² Citizens have “a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government.”

⁵³ It is well-established law that Due Process is violated when “a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation.”

⁵⁴ “it a violation of due process to convict and punish a man without evidence of his guilt.[13].”

⁵⁵ “conviction based upon a record wholly devoid of any relevant evidence of a crucial element of the offense charged is constitutionally infirm.”

⁵⁶ “A situation in which an official perforce occupies two practically and seriously inconsistent positions, one partisan and the other judicial, necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him.”

⁵⁷ “The inquiry in such a case shall extend to the questions whether there was a fair trial.”

⁵⁸ “A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official’s official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.”

⁵⁹ “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a

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Moreover, the City-hearings' lack-of-jurisdiction to cure unlawful searches/seizures and unlawful violation notices ensures these proceedings *assume*-constitutional the City's searches/seizures and *assume*-lawful violation notices, *a presumption-of-guilt defying due process*, [Marshall v. Jerico, Inc., 446 US 238 - Supreme Court 1980](#),⁶⁰ [CA Penal Code §1096](#),⁶¹ and establishing decisions ignorant of evidence, [CCP §1094.5](#),⁶² for which Writs of Mandate, CPF-24-518717 | CPF-25-518888 | CPF-25-519122 | CPF-25-519138, have been filed.

Our Eighth Amended Complaint lists: First, Second, Third, and Fourth causes of action for conversion of private property. Fifth cause of action for extortion. Additional causes of action: Sixth,⁶³ Seventh (Bane Act),⁶⁴ Eighth & Ninth (unconstitutional

material financial effect, distinguishable from its effect on the public generally, on any business entity in which the public official holds any position of management.”

⁶⁰ The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decisionmaking process... ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him.”

⁶¹ “A defendant in a criminal action is presumed to be innocent until the contrary is proved.”

⁶² “Abuse of discretion is established if the order or decision is not supported by the findings, or the findings are not supported by the evidence.”

⁶³ City's false claims and falsified evidence (fraud) condemn the innocent and harm the public interest.

⁶⁴ [Civil Code §52.1\(c\)](#) provides standing to any citizen to prosecute for damages, injunctive relief and other appropriate equitable relief caused by violation of rights secured by ‘the Constitution or laws of the United States, or the Constitution or laws of this state, including declaratory relief to eliminate a pattern or practice of violating any legal rights.’ Bane creates a

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searches/seizures), Tenth,⁶⁵ Eleventh,⁶⁶ Twelfth,⁶⁷ Thirteenth,⁶⁸ Fourteenth,⁶⁹ Fifteenth is violation of Equal Protection,

private right of action for Code Enforcement's violations of law (categorical deficiency of due process and equal protection) that deprive fundamental rights of liberty and property (dominion | privacy) discussed in this case.

⁶⁵ City's allegations-convictions-sentencing (violation notices) lack any procedural due process to challenge the allegations, condemning the innocent and harming the public interest.

⁶⁶ City's allegations-convictions-sentencing for safe property violate substantive due process condemning the innocent and harming the public interest.

⁶⁷ City's Orders of Abatement for safe property violate substantive due process, the City General Plan, and municipal code, condemning the innocent and harming the public interest.

⁶⁸ City's administrative hearings *assume*-lawful searches and violation notices resulting in decisions ignorant of evidence which criminalize safe property violating both Procedural and Substantive Due Process, condemning the innocent and harming the public interest.

⁶⁹ City's administrative hearings lack jurisdiction to cure unlawful searches and violation notices violating Procedural Due Process, condemning the innocent, and harming the public interest.

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Sixteenth,⁷⁰ Seventeenth,⁷¹ Eighteenth is for defamation, Nineteenth,⁷² and Twentieth.⁷³

And our DOJ Civil Rights Division, Criminal Section (Report 146960-VLZ filed on March 29, 2022) or CA State Bar seem to likely provide the only functional oversight of the City Attorney's ratification and defense of the City Attorney's management of SF Code Enforcement's deprivation of civil rights as evidenced by (1) Case 2122-119 filed with SF Ethics Commission on April 29, 2022, which was dismissed as being outside of the Ethics Commission's jurisdiction, however, the City

⁷⁰ City's Code Enforcement Policy or Custom of depriving fundamental rights of privacy, liberty, and property from (a) unconfined searches, (b) falsely claiming a violation when only safe (code complaint) property exists, (c) denying substantive due process of a valid government interest in violation notices, (d) denying a hearing to appeal violation notices, and (e) maintaining hearings that lack jurisdiction to cure unlawful searches and violation notices, condemn the innocent and harm the public interest.

⁷¹ City's Code Enforcement Policy or Custom fails to train employees that (a) unconfined searches are unlawful, (b) falsely claiming a violation when only safe (code complaint) property exists is unlawful, (c) denying substantive due process of a valid government interest in violation notices is unlawful, (d) denying a hearing to appeal violation notices is unlawful, and (e) maintaining hearings that lack jurisdiction to cure unlawful searches and violation notices is unlawful.

⁷² Code Enforcement decisions to conduct *unconstitutional* searches and issue *unlawful* violation notices to convict innocent citizens are abuses of discretion for the absence of any evidence of any crime, [CA Penal Code §871](#), and which are also in excess of jurisdiction as agents are only endowed with "enforcement authority for health, safety, and welfare requirements," [CA Penal Code §829.5](#), not authority to criminalize safe property, requiring judicial cure, CA CCP §1094.5.

⁷³ Code Enforcement decisions to conduct *unconstitutional* searches and issue *unlawful* violation notices to convict innocent citizens of non-existent crime are abuses of discretion which violate mandatory duties prescribed by our Constitutions (substantive and procedural due process), CA Law ([Civil Code §1714](#) and [Penal Code §829.5](#)), and municipal code (Chapter 80 and SFBC §102A) requiring judicial cure, CA CCP §1085.

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Attorney's *Ethics & Elections team* "provides legal advice to the Ethics Commission," <https://sfcityattorney.org/aboutus/legal-teams/>, allowing the City Attorney to occupy two practically and seriously inconsistent positions as respondent and judge negating due process and violating the mandatory duty of an attorney to follow the Constitutions, CA law, and State Bar Rules of Professional Conduct (*Tumey v. Ohio*, 273 US 510 - Supreme Court 1927,⁷⁴ [CA CCP §1094.5](#)⁷⁵); (2) Case filed with SF Civil Grand Jury on May 5, 2022, for systemic civil rights violations by the City Attorney's Code Enforcement; (3) Case reviewed with SF Human Rights Commission (HRC) on May 10, 2022, for systemic civil rights violations by the City Attorney's Code Enforcement, which was closed as being outside of HRC's jurisdiction, however, the [City Attorney's Government team](#) "provides legal advice and serves as general counsel to San Francisco's Human Rights Commission,"⁷⁶ allowing the City Attorney to occupy two practically and seriously inconsistent positions as respondent and judge negating due process and violating the mandatory duty of an attorney to follow the Constitutions, CA law, and State Bar Rules of Professional

⁷⁴ "A situation in which an official perforce occupies two practically and seriously inconsistent positions, one partisan and the other judicial, necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him."

⁷⁵ "The inquiry in such a case shall extend to the questions whether there was a fair trial."

⁷⁶ <https://careers.sf.gov/role/?id=3743990005698457#:~:text=The%20Government%20Team%20may%20also%20advise%20on%20Service%20Commission%2C%20and%20Department%20of%20Police%20Accountability>, accessed 4/28/26

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Conduct ([*Tumey v. Ohio*, 273 US 510 - Supreme Court 1927](#),⁷⁷ [CA CCP §1094.5](#)⁷⁸); and (4) Case 202205-16957610 filed with CA Civil Rights System on May 30, 2022, for systemic civil rights violations by the City Attorney's Code Enforcement, which was closed as the agency's staff did not acknowledge innocence as a protected class.

“Both the United States Constitution and the California Constitution make it emphatically clear that [] in no case shall the right of the people to be secure against unreasonable searches and seizures be violated,” [Cahan](#). And SF citizens have “a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government,” [Devereaux](#). It is well-established law that Due Process is violated when “a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation,” [Mooney](#). Code Enforcement's

⁷⁷ “A situation in which an official perforce occupies two practically and seriously inconsistent positions, one partisan and the other judicial, necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him.”

⁷⁸ “The inquiry in such a case shall extend to the questions whether there was a fair trial.”

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Constitutional violations and the conviction of innocent citizens maintaining safe property are catastrophic failures of democracy inflicting profound and irreparable harm to the citizens of San Francisco, [*Coffin v. United States*, 156 US 432 - Supreme Court 1895](#),⁷⁹ [*In re winship*, 397 US 358 - Supreme Court 1970](#),⁸⁰ [*Katzberg v. Regents of University of Cal.*, 58 P. 3d 339 - Cal: Supreme Court 2002](#).⁸¹

⁷⁹ ‘Protecting the innocent from wrongful persecution is fundamental to a free society.’

⁸⁰ “[W]e explicitly hold that the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.”

⁸¹ “Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential' [Citations.] In such a case, due process would accord an opportunity to refute the charge before University officials.”

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STATEMENT OF THE CASE

A. STATUTORY BACKGROUND

The San Francisco City Attorney manages Code Enforcement (<https://sfcityattorney.org/code/>).⁸² The purpose of Code Enforcement is to fulfill the public interest in safe property to prevent disease, injury, and death, which is the Substantive Due Process⁸³ mandatory-provision of the Fourth, Fifth, and Fourteenth Amendments, and CA Constitution Section 7 of Article I. In order to fulfill the public interest in safe property, [CA Penal Code §829.5](#) endows the City's Code Enforcement Officers with "enforcement authority for health, safety, and welfare requirements," to conduct *Constitutional* searches and seizures for probable cause of unsafe property⁸⁴ and to issue

⁸² "The Office of the City Attorney coordinates the efforts of the Building, Health, Planning, Public Works, Fire, and Police Departments to identify and respond effectively to health and safety threats and other public nuisance issues in San Francisco's neighborhoods. When a code violation is reported, the Code Enforcement Team at the City Attorney's Office responds by coordinating the investigation and abatement process by the relevant city agencies and, when necessary, pursuing additional remedies against violators through court action."

⁸³ [Camara v. Municipal Court of City and County of San Francisco, 387 US 523 - Supreme Court 1967](#): "The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety."

⁸⁴ [SF Administrative Code Chapter 80 - ANTI-BLIGHT ENFORCEMENT PROCEDURE](#): "Any thing or condition...that threatens injury or damage to the health, safety, welfare or property of members of the public, that obstructs the free use of property of others or of the public way or commons, or otherwise interferes with the comfortable enjoyment of life or property."

[SF Building Code §102A – UNSAFE BUILDINGS, STRUCTURES OR PROPERTY](#): "All buildings, structures, property, or parts thereof [] that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, safety, or health of the

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lawful violation notices for evidence of unsafe property.⁸⁵

However, the City Attorney's Code Enforcement (1) conducts *individual, very personal, unlimited in scope, searches for evidence of a crime* (deprivation of privacy and property) without substantive due process of probable cause of a public interest, without procedural due process of consent or warrant, without any due process confines in area and duration, and without any procedural due process to challenge the decision to search (deprivations of due process and equal protection); and the City Attorney's Code Enforcement (2) issues legally irrational violation notices, *allegation* (deprivation of liberty), *conviction* (deprivation of liberty), *sentencing* (deprivation of property) *for safe property*, predicated on false claims, predicated on an absence of any evidence of a building or safety code violation, predicated on the absence of any evidence of unsafe property,

occupants or the occupants of adjacent properties or the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment."

⁸⁵ [SF Administrative Code §80.5](#) prescribes that *evidence of unsafe property* is a mandatory provision of a violation notice: "Where the Director determines that any condition constitutes a blighted property, the Director shall issue a notice of violation to the property owner. At the time the notice of violation is issued, the Director shall take one or more photographs of the property showing the blighted conditions... The photographs shall be dated and retained as a part of the file for the violation... The burden of proof to establish that the property is blighted shall be on the City. The owner shall be entitled to present evidence and demonstrate that his or her property is not blighted."

And [SF Building Code §102A](#) further prescribes that *evidence of unsafe property* is a mandatory provision of a violation notice: "When the Building Official observes or otherwise determines any condition which renders the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of Municipal Code Violation ("NOV") upon the building owner... The NOV shall identify [] the violations which render the building, structure or property unsafe," [SFBC §102A.4](#).

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predicated on a non-existent public right-of-way, resulting from unconstitutional searches of private property to unlawfully seize knowledge of conditions of that property, and with a categorical deficiency of due process to refute the charges of property crime, condemning citizens guilty-until-proven-innocent with no opportunity to prove innocence (deprivations of due process and equal protection) causing profound harm.

B. COMPLAINT AUTHORIZING CODE ENFORCEMENT SEARCHES/SEIZURES

In 2017, we repaired/replaced a blighted, 4-foot wooden fence along our property line following local codes regarding blight and sidewalk safety⁸⁶ and [CA Civil Code §1714\(a\)](#),⁸⁷ Exhibit M, after which a neighbor filed a music complaint:

“The resident at this address has been consistently doing construction and playing loud music from 10am-6pm/7pm most days of the week. I would like to request the music volume be lowered or turned off. I can hear it in my apartment all day.”

⁸⁶ Removing blight is mandated by [SF Administrative Code Chapter 80](#), [SF Housing Code Chapter 10 §1001](#), and [SF Building Code §102A](#). The addition of safety lighting to enhance nighttime pedestrian safety along the sidewalk is supported by [SF Public Works Code Article 15 §706](#). The style of the fence to prevent “nuisance,” “vegetable matter,” “grass,” “weeds,” and “vegetation overgrowth” from impinging the sidewalk is supported by [SF Public Works Code Article 5.1 §174](#). The increased visibility and safety of the repaired fence also protects the Ingleside Terraces Landmark Pillars in alignment with [SF Planning Code Article 10 §1008](#).

⁸⁷ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

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The City used this music complaint to authorize code enforcement *individual, very personal, unlimited in scope, searches for evidence of a crime* by DBI Carl Weaver on 9/11/17 (Exhibit A, A2), Planning Ada Tan on or around 10/27/2021 (Exhibit NN), DPW staff on 11/24/2021, and DBI staff on 7/8/2024 (Exhibit LL) without consent (or warrant), without probable cause of any public interest in safety, without confines in area or duration, and without any process to appeal the decision to search. *See* CA Supreme Court Case No: S295215, requesting resolution of the conflict within the Courts around Fourth Amendment protections by ratifying jurisprudence that (1) privacy is determined by ownership, not trespass, or lack of public view, and (2) a search is intentional, not accidental.

City searches/seizures void probable cause of unsafe property in violation of the mandatory provision of Substantive Due Process, and City searches/seizures void warrant/consent and confines-in-area-and-duration in violation of the mandatory provision of Procedural Due Process are searches/seizures that *irreparably harm the public interest* by depriving fundamental rights of property (dominion | privacy) without any valid government interest in the deprivation because there is no public safety concern.

C. NO EVIDENCE RULE

No evidence of unsafe property was identified during these searches. Only evidence of safe (and code-compliant) property

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was seized from these searches, [*Thompson v. Louisville*, 362 US 199 - Supreme Court 1960](#),⁸⁸ [*Jackson v. Virginia*, 443 US 307 - Supreme Court 1979](#).⁸⁹ However, the seizure of evidence of only safe property was *falsified* to issue *legally irrational* violation notices (*allegation-conviction-sentencing* for safe property) mandating gratuitous and unlawful permits, variances, hearings, and abatements,⁹⁰ *without evidence* of unsafe property or violation of code, nor any appeal process, condemning citizens guilty-until-proven-innocent with no opportunity to prove innocence⁹¹ causing profound harm.

⁸⁸ “[j]ust as ‘Conviction upon a charge not made would be sheer denial of due process,’[12] so is it a violation of due process to convict and punish a man without evidence of his guilt.[13].”

⁸⁹ “conviction based upon a record wholly devoid of any relevant evidence of a crucial element of the offense charged is constitutionally infirm.”

⁹⁰ (1) ORDERS OF ABATEMENT for safe (and code compliant) property, (2) conversion of a private easement to a City-owned unpaved sidewalk leading to nowhere, and (3) extortion of \$165,354.25 for maintaining safe (and code compliant) property violate Substantive Due Process (the public interest in safe property), [CA Civil Code §1714\(a\)](#), the No Evidence Rule, [CA Penal Code §871](#), [SF Planning Code §101.1](#)’s requirement that City decisions comply with the SF General Plan, [SF Administrative Code Chapter 80](#), [SF Building Code 102A](#), and [CA Constitution Section 7 of Article XI](#), “A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws,” condemning the innocent.

⁹¹ Innocence is a “protected class” as unwaveringly held by our highest Courts: [In re winship](#), 397 US 358 - Supreme Court 1970, “the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged;” [Coffin v. United States](#), 156 US 432 - Supreme Court 1895, ‘Protecting the innocent from wrongful persecution is fundamental to a free society;’ [Devereaux v. Abbey](#), 263 F. 3d 1070 - Court of Appeals, 9th Circuit 2001, citizens have “a clearly established constitutional due process right not to be subjected to criminal charges on the basis of false evidence that was deliberately fabricated by the government;” [Mooney v. Holohan](#), 294 US 103 - Supreme Court 1935, it is well-established law that Due Process is violated

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First, the City's violation notices are legally irrational because the *alleged code violations are false*: (1) DBI Carl Weaver *falsely* alleged that SFBC §103A requires a permit to maintain a safe 4-ft fence, *when in fact* [SFBC §103A](#) merely recommends that property adhere to the building code, which our fence does. (2) Planning Ada Tan *falsely* alleged that our trellis/solarium

when "a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation;" and [Katzberg v. Regents of University of Cal., 58 P. 3d 339 - Cal: Supreme Court 2002](#), "Where a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential' [Citations.] In such a case, due process would accord an opportunity to refute the charge before University officials." (Ibid.)[3] The Court of Appeal stated that it would assume for purposes of analysis that a similar liberty interest exists under article I, section 7(a) of the state Constitution."

Innocence is a "protected class" as established by statute: (1) [Fifth Amendment](#): "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation;" (2) [Fourteenth Amendment](#): "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws;" (3) [CA Constitution Article I §7\(a\)](#): "A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws;" (4) [CA Gov. Code §820.4](#): "Nothing in this section exonerates a public employee from liability for false arrest or false imprisonment;" (5) [CA Penal Code §1096](#): "A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his or her guilt is satisfactorily shown, he or she is entitled to an acquittal, but the effect of this presumption is only to place upon the state the burden of proving him or her guilty beyond a reasonable doubt;" (6) [CA Penal Code §871](#): "If, after hearing the proofs, it appears either that no public offense has been committed or that there is not sufficient cause to believe the defendant guilty of a public offense, the magistrate shall order the complaint dismissed and the defendant to be discharged."

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violates Planning Code §136 “because the trellis is not attached to the home” and Planning Code §175 because it does not have a building permit, *when in fact* (a) the trellis/solarium is credited as “private usable open space” defined and beholden to [Planning Code §135](#), not [§136](#), (b) [SF Building Code §106A.2](#) exempts this open-air structure without a roof⁹² from needing a building permit,⁹³ and (c) [Planning Code §175](#) does not create any permit requirement for the trellis/solarium but rather guides Planning in their work. And (3) DPW *falsely* alleged that the City owns our private property easement as an unpaved sidewalk (claims themselves that violate CA Building Code,⁹⁴ SF Public Works Code,⁹⁵ and SF Administrative Code⁹⁶ governing sidewalks as

⁹² [CA Building Code \(2022\) Chapter 9 – ROOF ASSEMBLIES](#) defines “roof” as “the roof deck, substrate or thermal barrier, insulation, vapor retarder and roof covering,” which are not components of the open-air trellis/solarium.

⁹³ The *licensed* landscape contractor with more than 30 years of experience who built the trellis/arbor/solarium, upon hearing that Planning, Ada Tan, issued a violation notice to “[r]emove the trellis from the front setback,” stated that he was “*surprised that this is an issue because it is an open structure on the sides and top. I have never had to permit an arbor like this and it has never been an issue in the thirty years that I have been building in the city.*”

⁹⁴ [CA Building Code \(2022\) 1113A.1](#) mandates sidewalk “surfaces shall be stable, firm and slip resistant.”

⁹⁵ [SF Public Works Code §703](#) mandates sidewalks “shall be of concrete,” [§703.1](#) “brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material.” [SF Public Works Code §723](#) legislates “It shall be unlawful for any person, firm or corporation, to pile, cap, or otherwise obstruct or place obstructions or encroachments upon, above, or below, any public right-of-way.”

⁹⁶ [SF Admin. Code §80.4](#) legislates “Any thing or condition that obstructs the public way or commons is a public nuisance. Such public nuisances are prohibited within the City and no person shall create or participate in the creation or maintenance of such a public nuisance.”

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well as violate Adverse Possession Law⁹⁷ and Constitutional property law), *when in fact*, we (and all of the property owners in Ingleside Terraces) own our easement.

Second, the City's violation notices are legally irrational because *only evidence of safe property benefiting the public was seized*: (Exhibit BB) 57 public signatures attesting:

"I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement;"

(Exhibit AA) 10 written public comments regarding the public benefit of the 2017 repair of the dilapidated 4-ft fence; (Exhibit AI, Appendix of Planning Variance Proceeding) oral testimony from 3 members of the public regarding the public benefit of the safe fence for the Planning Department Variance Hearing on July

⁹⁷ The City *cannot, by Law*, claim adverse possession of land that was not being devoted to a public purpose during the period that the City claimed to be an adverse possessor, as "[immunity] doctrine does not extend to subdivisions of the Commonwealth like counties or municipal governments when land is not being used for a public purpose. *Galdo* holds that leaving land vacant for potential future use does not count as such a public purpose for adverse possession purposes," (Harvard's Joseph Singer referencing [*City of Philadelphia v. Galdo*, 217 A. 3d 811 - Pa: Supreme Court 2019](#)) | Singer J. "[Adverse possession available against city when land was not being used for a public purpose.](#)" Harvard Law School. August 18, 2020. <https://faculty.law.harvard.edu/joseph-singer/2020/08/18/adverse-possession-available-against-city-when-land-was-not-being-used-for-a-public-purpose/>. Accessed in 2024, 4/3/2025, and 1/24/26).

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25, 2018; and (Exhibit Z) 26 written public comments received up to October 6, 2024, regarding the public benefit of the trellis/arbor including its compliance with [Planning's Residential Design Guidelines](#) and the [Recreation and Open Space Element of Planning's SF General Plan](#), an absence of unsafe property, and evidence that the arbor does not obstruct any public right-of-way. Code Enforcement violation notices (*allegation, conviction, and sentencing for 'unsafe property'*) void any *evidence of unsafe property* violate the mandatory constitutional provision of Substantive Due Process that 'Code Enforcement's deprivation of liberty (violation notice's allegation and conviction of unsafe property) and property (violation notice's sentencing for unsafe property) fulfill "[t]he primary governmental interest [] to prevent even the unintentional development of conditions which are hazardous to public health and safety," [Camara, CA Penal Code §871](#),⁹⁸ Fifth and Fourteenth Amendments, and CA Constitution Section 7 of Article I. Violation notices void of evidence of unsafe property in violation of the mandatory provision of Substantive Due Process are violation notices that *irreparably harm the public interest* by depriving fundamental rights of liberty and property without any valid government interest in the deprivation because there is no public safety concern.

⁹⁸ "If, after hearing the proofs, it appears either that no public offense has been committed or that there is not sufficient cause to believe the defendant guilty of a public offense, the magistrate shall order the complaint dismissed and the defendant to be discharged."

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And third, the City's violation notices are legally irrational because (1) requiring a permit to follow the law transforms the State's "self-executing" mandatory duty of [CA Civil Code §1714\(a\)](#)⁹⁹ and mandatory duty of Substantive Due Process to uphold the public interest in safe property, into a City's discretionary decision to bar the mandatory-duty-to-maintain-safe-property by denying a permit to maintain safe property, defying Preemption and violating [CA Constitution Section 7 of Article XI](#), "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (2) The Federal Supreme Court further holds that it is unlawful to require a permit to maintain safe property and follow the law: "A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution... a person cannot be compelled 'to purchase, through a license fee or a license tax, the privilege freely granted by the constitution.'^[9] [Blue Island v. Kozul, 379 Ill. 511, 519, 41 N.E.2d 515,](#)" [Murdock v. Pennsylvania, 319 US 105 - Supreme Court 1943](#). And (3) requiring *permission* from the City to follow municipal codes and State and Constitutional Laws requiring safe property exceeds the jurisdiction and authority of Code Enforcement officers who are only endowed with "enforcement authority for health, safety, and welfare requirements," [CA Penal Code §829.5](#), *not* authority to

⁹⁹ "Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person."

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criminalize safe property by requiring a permit to maintain safe property.

D. NO PROCEDURAL DUE PROCESS TO CHALLENGE VIOLATION NOTICES OR SEARCHES/SEIZURES

Despite the City's countless violation notices from DBI Carl Weaver alleging violation of SFBC §103A, Planning Ada Tan alleging violation of Planning Code §§ 136, 175, and DPW staff alleging the City somehow owns the private property easement to claim violations of *public* right-of-way codes, it is a fact that there is no procedural due process to refute any of these charges as evidenced by the violation notices themselves, Exhibits A2, NN, D, E, F, G, H, I, and confirmed by Nicolas Huff, DPW Bureau Manager of Street-Use & Mapping, with his June 13, 2022, reply to our request that DPW participate in an SF Superior Court Alternative Dispute Resolution (ADR) process to appeal Code Enforcement searches and violation notices, Exhibit K:

“The application of the codes has been long established and isn't open to mediation. If you would like to pursue a legal avenue you can reach out to your representative with the Board of Supervisors for special Major Encroachment legislation. If legislation is not possible you can file for litigation with the City.”

E. DBI PROSECUTION FOR SAFE PROPERTY

Despite the legally irrational DBI violation notice that additionally lacks any procedural due process to defend oneself against such charges, we filed fence-repair permit application 2017-1011-0923 on October 11, 2017, and paid \$1,351.00 for

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Enforcement Case 2017-012837ENF. The City then established as a pre-requisite to finalization of the fence-repair permit, a Variance for the 4-foot height of the historically 4-foot fence while our Ingleside Terraces neighbors' 4-foot fences do not require a Variance to exist, a violation of Equal Protection, [*Village of Willowbrook v. Olech*, 528 US 562 - Supreme Court 2000](#),¹⁰⁰ and [*People v. Hofsheier*, 129 P. 3d 29 - Cal: Supreme Court 2006](#).¹⁰¹ We paid \$1,078.34 for the mandated Variance 2018-002358VAR which was approved on July 20, 2019, and Notice of Special Restrictions (NSR) allowing the 4-ft height of the historically 4-ft fence was notarized on March 28, 2021, and processed by the Assessor-Recorder's Office on June 6, 2021. We paid the recording fee \$105 and attorney's fee \$325.

On November 24, 2021, DBI and Planning approved the fence-repair permit, but DPW placed a hold on the fence-repair permit until we comply with the City's conversion of our 9-ft public utility easement into an unpaved City sidewalk. DPW's purpose of converting the private easement into a City-owned unpaved sidewalk is to unlawfully mandate numerous permits

¹⁰⁰ "[t]he purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents." [*Sioux City Bridge Co., supra*, at 445](#) (quoting [*Sunday Lake Iron Co. v. Township of Wakefield*, 247 U. S. 350, 352 \(1918\)](#))."

¹⁰¹ "The first prerequisite to a meritorious claim under the equal protection clause is a showing that the state has adopted a classification that affects two or more *similarly situated* groups in an unequal manner." ([*In re Eric J.* \(1979\) 25 Cal.3d 522, 530, 159 Cal.Rptr. 317, 601 P.2d 549](#); [*Cooley v. Superior Court* \(2002\) 29 Cal.4th 228, 253, 127 Cal.Rptr.2d 177, 57 P.3d 654](#).)

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relevant to sidewalks (*public* rights-of-way).¹⁰² DPW's claim of an unpaved City sidewalk leading to nowhere with a fence obstructing the paved sidewalk from the unpaved side violates CA Building Code,¹⁰³ SF Public Works Code,¹⁰⁴ and SF Administrative Code¹⁰⁵ governing sidewalks, and violates

¹⁰² DPW Kevin Li's February 3, 2022, emailed violation notice (Exhibit G) *falsely asserts*:

"The Planning Department Zoning Variance (front setback variance) only applies to fences within your property line as specified in the variance decision document. Planning does not have jurisdiction in the public right-of-way. All other portions of the fence are located in the public right-of-way and subject to DPW's requirements. Thus, DPW's fence height and location requests supersede any other department.

As I mentioned above, the public right-of-way is DPW's jurisdiction and subject to DPW requirements and thus supersedes Building Departments issuance of a 2015 plumbing permit for the gas fire table located in the right-of-way. Under that permit, you are only allowed to have the gas fire table within your property line. Since the gas fire table is currently not within your property line, you are required to acquire a building permit with plans and another plumbing permit to correct this.

In addition, you are required to acquire a DPW General Excavation permit to remove the gas line and pergola and restore the right-of-way to City Standards."

¹⁰³ [CA Building Code \(2022\) 1113A.1](#) mandates sidewalk "surfaces shall be stable, firm and slip resistant."

¹⁰⁴ [SF Public Works Code §703](#) mandates sidewalks "shall be of concrete," [§703.1](#) "brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material." [SF Public Works Code §723](#) legislates "It shall be unlawful for any person, firm or corporation, to pile, cap, or otherwise obstruct or place obstructions or encroachments upon, above, or below, any public right-of-way."

¹⁰⁵ [SF Admin. Code §80.4](#) legislates "Any thing or condition that obstructs the public way or commons is a public nuisance. Such public nuisances are prohibited within the City and no person shall create or participate in the creation or maintenance of such a public nuisance."

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Adverse Possession Law¹⁰⁶ and Constitutional Law¹⁰⁷ governing private property.

DBI held a [Director's Hearing March 7, 2023](#) due to DPW's hold on the fence-repair permit, (Exhibit AF, transcript, Appendix DBI Proceeding), during which hearing officer Brett Howard at 00:11:36 ordered "We're not going to wait for the federal court to make its decision [about who owns the easement], so I'm going to move to issue an Order of Abatement." DBI's Order of Abatement with CES fee of \$4,725.43 was not predicated on any unsafe property which is a violation of law:

"This hearing is being recorded and conducted under section 102A inclusive to the San Francisco building code. The purpose of these hearings is to allow property representatives to show cause as to why the buildings on

¹⁰⁶ The City *cannot, by Law*, claim adverse possession of land that was not being devoted to a public purpose during the period that the City claimed to be an adverse possessor, as "[immunity] doctrine does not extend to subdivisions of the Commonwealth like counties or municipal governments when land is not being used for a public purpose. *Galdo* holds that leaving land vacant for potential future use does not count as such a public purpose for adverse possession purposes," (Harvard's Joseph Singer referencing [City of Philadelphia v. Galdo, 217 A. 3d 811 - Pa: Supreme Court 2019](#)) | Singer J. "[Adverse possession available against city when land was not being used for a public purpose.](#)" Harvard Law School. August 18, 2020. <https://faculty.law.harvard.edu/joseph-singer/2020/08/18/adverse-possession-available-against-city-when-land-was-not-being-used-for-a-public-purpose/>. Accessed in 2024, 4/3/2025, and 1/24/26).

¹⁰⁷ (1) Fifth Amendment, "no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation;" (2) Fourteenth Amendment, "nor shall any State deprive any person of life, liberty, or property, without due process of law;" and (3) CA Constitution Section 7 of Article I, "A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws."

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today's agenda should not be ordered to be vacated, repaired, altered, or demolished as is appropriate.”

DBI's Order of Abatement violates Fourth, Fifth and Fourteenth Amendments' and CA Constitution's Substantive Due Process mandatory requirement¹⁰⁸ and SFBC §102A's mandatory requirement that *evidence of unsafe property exist* in order to issue a violation notice and order of abatement,¹⁰⁹ and is instead predicated on DPW's hold on the fence-repair permit which is predicated on DPW's unlawful claim that the City owns the private easement listed on the property title, Exhibit B.

The Order of Abatement was brought to the Abatement Appeals Board, but because the Abatement Appeals Board does not have jurisdiction to determine if DBI searches are constitutional nor if DBI's or DPW's violation notices are lawful, [SF Building Code §105A.2](#), they are prevented from being able to evaluate or cure DPW's claim that the City owns the public utility easement listed on the private property title, a lack of jurisdiction confirmed by Commissioner Eppler, during the June 26, 2024 Board of Appeals hearing at 01:02:50: “There's a

¹⁰⁸ [Camara v. Municipal Court of City and County of San Francisco, 387 US 523 - Supreme Court 1967](#): “The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety.”

¹⁰⁹ [SF Building Code §102A](#) prescribes that *evidence of unsafe property* is a mandatory provision of a violation notice: “When the Building Official observes or otherwise determines any condition which renders the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of Municipal Code Violation (“NOV”) upon the building owner... The NOV shall identify [] the violations which render the building, structure or property unsafe,” [SFBC §102A.4](#).

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question that was raised by the Appellant of whether this is public land or private land, and that is not a question that we're going to answer because that's a State Court question."

(Appendix AAB Proceeding) And despite evidence of only safe (code-complaint) property, despite evidence that we and all of our neighbors own our public utility easement, despite evidence that there is no unpaved sidewalk on the Ingleside Terraces properties, despite the evidence that DBI's mandate to remove a safe fence violates Substantive Due Process' mandatory provision that 'prior to taking any action the City shall find that the proposed City action improves public safety,' despite the evidence that DBI's mandate to remove the fence that enhances safety and property values harms the public interest, and despite evidence that DBI's allegations of property crime are false, the Abatement Appeals Board ratified DBI's Order of Abatement on March 6, 2025. Writ of Mandate for this decision in excess of jurisdiction, prejudicial abuse of discretion for this decision not supported by the evidence, DBI and DPW's prejudicial abuse of discretion for not proceeding in the manner required by law, and a lack of a fair trial was filed on May 22, 2025, Case No.: CPF-25-519122.

F. PLANNING PROSECUTION FOR SAFE PROPERTY

After Planning's unconstitutional search of property to unlawfully seize knowledge of conditions of safe, code-compliant property, Planning Ada Tan *falsely* alleged that (1) our trellis/solarium violates Planning Code §136 "because the trellis is not attached to the home" and Planning Code §175 because it does not have a building permit, *when in fact* (a) the

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trellis/solarium is credited as “private usable open space” defined and beholden to [Planning Code §135](#), not [§136](#), (b) [SF Building Code §106A.2](#) exempts this open-air structure without a roof¹¹⁰ from needing a building permit,¹¹¹ and (c) [Planning Code §175](#) does not create any permit requirement for the trellis/solarium but rather guides Planning in their work. And Planning Ada Tan *falsely alleged* that (2) our private property easement is instead an unpaved city sidewalk which erroneously places the front setback in the middle of the yard and erroneously changes the width of the front setback violating front setback laws that require a truthful size and location of the front setback.

Based on these false allegations, Planning mandated removal of the safe and code-compliant trellis/solarium, in violation of Substantive Due Process¹¹² and [SF Planning Code §101.1](#)’s mandatory provision that ‘prior to taking any action the City shall find that the proposed City action is consistent with the General Plan,’ harming the public interest because *removing*

¹¹⁰ [CA Building Code \(2022\) Chapter 9 – ROOF ASSEMBLIES](#) defines “roof” as “the roof deck, substrate or thermal barrier, insulation, vapor retarder and roof covering,” which are not components of the open-air trellis/solarium.

¹¹¹ The *licensed* landscape contractor with more than 30 years of experience who built the trellis/arbor/solarium, upon hearing that Planning, Ada Tan, issued a violation notice to “[r]emove the trellis from the front setback,” stated that he was “*surprised that this is an issue because it is an open structure on the sides and top. I have never had to permit an arbor like this and it has never been an issue in the thirty years that I have been building in the city.*”

¹¹² [Camara v. Municipal Court of City and County of San Francisco, 387 US 523 - Supreme Court 1967](#): “The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety.”

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the arbor/solarium violates 20 policies of the [Recreation and Open Space Element](#) of Planning's own [SF General Plan](#) (Eighth Amended Complaint para 115):

Violation #	Removal of the safe, code-compliant arbor/solarium:	Policy violated
1	<u>Destroys, Prevents, and Prohibits</u> the dynamic and flexible use of existing open space by <u>Preventing and Prohibiting</u> a variety of recreation and open space uses	1.1
2	Makes existing open space vulnerable to being converted to other uses and vulnerable to encroachment from other uses, allowing loss of quantity and/or quality of open space.	1.3
3	<u>Destroys, Prevents, and Prohibits</u> public art, an essential component of open space design, as the homeowners have taken an active role in both the design of this architectural landscape feature as well as the curation of the living urban canopy it supports.	1.7
4	<u>Destroys, Prevents, and Prohibits</u> urban agriculture and local food security by <u>Destroying, Preventing, and Prohibiting A Structure that Hosts</u> edible plants and food production.	1.8
5	<u>Destroys, Prevents, and Prohibits</u> sunlight in open spaces by allowing building encroachments.	1.9
6	Allows open space to become unsafe for the City's population by <u>Destroying, Preventing, and Prohibiting</u> a visible deterrent to oncoming traffic during the day and by <u>Destroying, Preventing, and Prohibiting</u> lighting at night that acts as a visible deterrent to oncoming traffic as well as to urban crime.	1.10
7	<u>Destroys, Prevents, and Prohibits</u> private recreational activities on private land that provides a community benefit, particularly to low and moderate-income residents as evidenced by <u>Preventing and Prohibiting</u> open space from being used as an outdoor school during pandemics,	1.11

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	<u>Preventing and Prohibiting</u> open space from being used as a recreational after-school space for community families, and by <u>Preventing and Prohibiting</u> open space from being used as a safe gathering space for a community book club, meetings for community groups and non-profits, and other community social and recreational activities.	
8	Allows the historic and culturally significant Ingleside Terrace Pillars to become vulnerable to vehicular damage from oncoming traffic as well as vandalism.	1.12
9	<u>Prevents and Prohibits</u> a variety of high-quality outdoor opportunities for San Franciscans, such as school and afterschool play and study space, an edible garden shared with the community, and a meeting and gathering space that showcases the beauty of the outdoors.	2.2
10	<u>Destroys, Prevents, and Prohibits</u> a civic-serving open space that hosts children, community groups and non-profits, and the neighborhood.	2.6
11	<u>Prevents and Prohibits</u> privately developed residential open space from being usable, beautiful, and environmentally sustainable.	2.11
12	<u>Destroys</u> the urban forest by removing structural and environmental support for countless fruiting and flowering trees, plants, and shrubs.	3.6
13	<u>Destroys, Prevents, and Prohibits</u> local biodiversity by removing structural and environmental support for trees as well as countless fruiting and flowering plants and shrubs that were added to the landscape.	4.1
14	<u>Destroying, Preventing, and Prohibiting</u> the integration of local biodiversity into open space management and maintenance.	4.3
15	<u>Destroying, Preventing, and Prohibiting</u> environmentally sustainable practices, and <u>Destroying, Preventing, and Prohibiting</u> the curation of open spaces for the purpose of both climate protection and human enjoyment.	4.4

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16	<u>Destroys, Prevents, and Prohibits</u> civic design and curation of our open space to <u>Destroy, Prevent, and Prohibit</u> civic engagement opportunities.	5.1
17	<u>Destroys, Prevents, and Prohibits</u> awareness of our City's open space system.	5.2
18	<u>Destroys, Prevents, and Prohibits</u> our community-initiated and community-supported open space development.	5.3
19	<u>Destroys, Prevents, and Prohibits</u> our environmental and civic stewardship of our open spaces.	5.5
20	<u>Destroys, Prevents, and Prohibits</u> our creative and financial investment in maintaining and enhancing our open space, and <u>Destroys, Prevents, and Prohibits</u> an open-space beacon for the neighborhood and larger community.	6.1

See also Exhibit Z, public comment regarding the safety and public benefit of the trellis/solarium.

And despite evidence of only safe (code-complaint) property, despite evidence that we and all of our neighbors own our public utility easement, despite evidence that there is no unpaved sidewalk on the Ingleside Terraces properties, despite the evidence that Planning's placement of the front setback in the middle of the yard (predicated on a non-existent unpaved sidewalk) is falsified evidence, and despite evidence that Planning's allegations of property crime are false, Planning mandated a Variance to maintain our safe, code-compliant arbor/trellis.

On February 19, 2022, we submitted Project Application (PRJ) 2022-001463PRJ and Variance Supplemental Form to

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Planning and paid \$1,137.50 for the Variance process on April 15, 2022. And despite evidence of only safe (code-complaint) property, despite evidence that we and all of our neighbors own our public utility easement, despite evidence that there is no unpaved sidewalk on the Ingleside Terraces properties, despite the evidence that Planning's mandate to remove the trellis/solarium violates [SF Planning Code §101.1](#)'s mandatory provision that 'prior to taking any action the City shall find that the proposed City action is consistent with the General Plan,' despite the evidence that Planning's mandate to remove a safe trellis/solarium violates Substantive Due Process' mandatory provision that 'prior to taking any action the City shall find that the proposed City action improves public safety, despite the evidence that Planning's mandate to remove the trellis/solarium harms the public interest, and despite evidence that Planning's allegations of property crime are false, the Zoning Administrator denied the Variance on August 26, 2024, a decision in excess of jurisdiction demonstrating prejudicial abuse of discretion for a decision not supported by the evidence with prejudicial abuse of discretion for enforcement officers not proceeding in the manner required by law, which is a deprivation of due process. We paid the Public Notification fee of \$443.30.

Planning's mandate for and then denial of a Variance and subsequent Notice of Violation (NOV) violate Fourth, Fifth and Fourteenth Amendments' and CA Constitution's Substantive Due

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Process mandatory requirement,¹¹³ and [SF Building Code §102A](#)'s¹¹⁴ and [SF Administrative Code §80.5](#)'s¹¹⁵ mandatory requirement that *evidence of unsafe property exist* in order to issue a violation notices (NOE, NOV), and is instead predicated on Planning's false allegations of code violations.

The mandate for and then denial of the Variance and the Notice of Violation were brought to the Board of Appeals (charging \$1200 for these hearings), but because the Board of Appeals does not have jurisdiction to determine if Planning's searches are constitutional nor if Planning's violation notices are lawful, [SF City Charter §4.106](#), they are prevented from being able to evaluate or cure Planning's claim of code violations. And despite evidence of only safe (code-complaint) property, despite evidence that we and all of our neighbors own our public utility

¹¹³ [Camara v. Municipal Court of City and County of San Francisco, 387 US 523 - Supreme Court 1967](#): "The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety."

¹¹⁴ *Evidence of unsafe property* is a mandatory provision of a violation notice: "When the Building Official observes or otherwise determines any condition which renders the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of Municipal Code Violation ("NOV") upon the building owner... The NOV shall identify [] the violations which render the building, structure or property unsafe," [SFBC §102A.4](#).

¹¹⁵ *Evidence of unsafe property* is a mandatory provision of a violation notice: "Where the Director determines that any condition constitutes a blighted property, the Director shall issue a notice of violation to the property owner. At the time the notice of violation is issued, the Director shall take one or more photographs of the property showing the blighted conditions... The photographs shall be dated and retained as a part of the file for the violation... The burden of proof to establish that the property is blighted shall be on the City. The owner shall be entitled to present evidence and demonstrate that his or her property is not blighted."

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easement, despite evidence that there is no unpaved sidewalk on the Ingleside Terraces properties, despite the evidence that Planning's placement of the front setback in the middle of the yard (predicated on a non-existent unpaved sidewalk) is falsified evidence, despite the evidence that Planning's mandate to remove the trellis/solarium violates [SF Planning Code §101.1](#)'s mandatory provision that 'prior to taking any action the City shall find that the proposed City action is consistent with the General Plan,' despite the evidence that Planning's mandate to remove a safe trellis/solarium violates Substantive Due Process' mandatory provision that 'prior to taking any action the City shall find that the proposed City action improves public safety, despite the evidence that Planning's mandate to remove the trellis/solarium harms the public interest, and despite evidence that Planning's allegations of property crime are false, the Board of Appeals ratified Planning's mandate for and then denial of a Variance and subsequent Notice of Violation (NOV) and Order of Abatement (OOA). Writs of Mandate for these decisions in excess of jurisdiction, prejudicial abuse of discretion for decisions not supported by the evidence, Planning's prejudicial abuse of discretion for not proceeding in the manner required by law, and a lack of a fair trial were filed on January 30, 2025, CPF-25-518888 and June 5, 2025, CPF-25-519138.

G. DPW PROSECUTION FOR SAFE PROPERTY

On November 17, 2021, Planning emailed, "The Department of Public Works, Bureau of Street-Use and Mapping (DPW-BSM) is also required to review/approve the permit before

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it can be issued. I checked in with their agency and they confirmed that the Public right of way (PROW) is 15 feet measured from the curb (along both Ashton Ave and Holloway Ave). Portions of the fence are located within the PROW and DPW stated that a minor encroachment permit is required before they can sign off on the building permit for the fence,” Exhibit D.

However, it is a fact that the Ingleside Terraces neighborhood has 6-ft sidewalks and a 9-ft public utility easement (*private* right-of-way):¹¹⁶ (1) the sidewalks measure 6-feet in width, (2) the 2024 Boundary Exhibit for our property, Exhibit O, confirms the 6-foot width of the sidewalks and adjacent location of the 9-foot easement, [CA Gov. Code §66475](#),¹¹⁷ (3) E.J. Morser’s 1912 Subdivision Map of Ingleside Terraces’ 792-house lots confirms the presence of the easement for a “sub-surface sewer right of way,” Exhibits R, S, (4) the [Historic Sanborn Map of our property](#) shows water pipes located in the Public Utility Easement confirming the purpose of the private

¹¹⁶ The Law distinguishes between *public* and *private* rights-of-ways as held by CA Court of Appeals in [County of Sacramento v. Pacific Gas & Elec. Co.](#), 193 Cal. App. 3d 300 – Cal: Court of Appeal, 3rd Appellate Dist. 1987:

“Long ago our Supreme Court made clear the difference between public and private rights of way: ‘Public ways, as applied to ways by land, are usually termed “highways” or “public roads,” and are such ways as every citizen has a right to use. A private way relates to that class of easements in which a particular person, or particular description or class of persons, have an interest or right as distinguished from the general public.’”

¹¹⁷ “There may be imposed by local ordinance a requirement of dedication or irrevocable offer of dedication of real property within the subdivision for streets, alleys, including access rights and abutter’s rights, drainage, public utility easements and other public easements.”

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easement is for public utility, Exhibit C, (5) Ingleside Terraces photographs *circa* 1912-1915 from SF Public Library History Center confirm 6-foot sidewalks with an adjacent private easement housing the public utility streetlights ([image 1](#), [image 2](#), [image 3](#), [image 4](#), [image 5](#), [image 6](#)), and (5) California Land Title Association (CTLA) Report describes only one Easement, reserved for Public Utility, dated September 18, 1922, Exhibit B, [CA Evidence Code §662](#),¹¹⁸ (evidence also confirming the City's conversion of a private easement into a City-owned unpaved sidewalk (void any public purpose) as fact).

On November 24, 2021, after Planning and DBI signed off on the fence-repair permit, our family watched DPW use computer technology to search our property for evidence of a crime without probable cause, without consent or a warrant, and without any confines of area or duration. This search recovered evidence of only safe property, a private easement that complies entirely with building code, public works code, and the SF General Plan, a private easement that has *not* been used by the public as an unpaved sidewalk because our property does not land-lock any public lands. DPW placed the fence permit [with Variance and NSR] on hold and mandated a Minor Sidewalk Encroachment Permit (despite the absence of any encroachment and despite the absence of an unpaved city sidewalk on our property) as a prerequisite to signing off on the fence-repair permit.

¹¹⁸ "The owner of the legal title to property is presumed to be the owner of the full beneficial title."

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This permit-mandate lacked any appeal process in violation of due process.

On December 4, 2021, we submitted Minor Sidewalk Encroachment Permit Application and paid the fee of \$206.55. On January 13, 2022, DPW, Exhibit F, expanded their false claims predicated on conversion of private property:

“After review of your application, it has been determined that the fence can remain subject to the following conditions/alterations: (1) Fence height to be reduced to 3 feet (2) 3 feet clearance around the streetlight pole and box on Holloway Ave required by SFPUC... (3) 3 feet path of travel required between the trees and fence on Holloway Ave (provide photos with tape measure clearly showing the path of travel width). In addition, the approximate 10 ft X 10 ft cedar pergola and the propane fire table shall be removed from the right-of-way. The right-of-way is a public space and shall not be altered for private use.”

We challenged these mandates because (1) we have a Planning Variance *legalizing* the 4-ft height of the fence, (2) the streetlight is accessible, appropriately, from the public utility easement, (3) we have a DBI permit *legalizing* the gas fire table, (4) there is *no public* right-of-way on or through our property so there is no encroachment, and (5) we own our easement as listed on our property Title (Exhibit B). However, on February 3, 2022, DPW, Exhibit G, further ratified their false claims predicated on conversion of private property:

“The Planning Department Zoning Variance (front setback variance) only applies to fences within your property line as specified in the variance decision document. Planning does not have jurisdiction in the

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public right-of-way. All other portions of the fence are located in the public right-of-way and subject to DPW's requirements. Thus, DPW's fence height and location requests supersede any other department.

As I mentioned above, the public right-of-way is DPW's jurisdiction and subject to DPW requirements and thus supersedes Building Departments issuance of a 2015 plumbing permit for the gas fire table located in the right-of-way. Under that permit, you are only allowed to have the gas fire table within your property line. Since the gas fire table is currently not within your property line, you are required to acquire a building permit with plans and another plumbing permit to correct this.

In addition, you are required to acquire a DPW General Excavation permit to remove the gas line and pergola and restore the right-of-way to City Standards."

DPW repeatedly ratified their false claims predicated on conversion of private property, Exhibits H, I.

On December 1, 2023, DPW denied the Minor Sidewalk Encroachment permit, "Per our conversations with the City Attorneys it was time to deny the permit at this point."¹¹⁹ We appealed the mandate for and then denial of the Minor Sidewalk Encroachment Permit, paying a hearing fee of \$300.

However, during three Board of Appeals' hearings, DPW falsely claimed that the Ingleside Terraces' 6-ft sidewalk and 9-ft private easement were *instead* a 15-ft sidewalk of which 9-ft was unpaved and leading to nowhere, and with a fence obstructing

¹¹⁹ February 7, 2024, Board of Appeals Hearing, 00:23:09.

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the paved from the unpaved side,¹²⁰ Exhibit AK. The 1903¹²¹ and 1910 ordinances that DPW claimed established 15-ft sidewalks for the Ingleside Terraces Neighborhood, were in fact created when the land in question was *not* a neighborhood but was rather the Ingleside Racetrack. The Ingleside Racetrack was not purchased by the Urban Realty Improvement Co. until 1911 and the Subdivision Map for the 792-house lots of Ingleside Terraces Neighborhood was not notarized by the City until April 24, 1912, Exhibits R, S. And the Lakeview Neighborhood streets listed in ordinance 1098, Exhibit P, are confirmed by the Lakeview Subdivision Map from 1908, Exhibit Q.

DPW's purpose of converting the private easement into a City-owned unpaved sidewalk is to unlawfully mandate numerous permits relevant to sidewalks (*public* rights-of-way), Exhibit G. DPW's claim of an unpaved City sidewalk leading to nowhere with a fence obstructing the paved sidewalk from the unpaved side violates CA Building Code,¹²² SF Public Works

¹²⁰ "The official sidewalk width for this portion of Ashton Ave. is 15 feet and was established by Ordinance 1098 on March 9, 1910. The sidewalk width along Holloway Ave. is 15 feet and was established in 1903... the official sidewalk width may or may not be paved with concrete. As can be seen in Figure 1(a), only a portion of the official 15 foot sidewalk on both Ashton and Holloway Avenues is paved and the remainder has been occupied with various improvements associated with the fronting properties."

¹²¹ The Clerk of the Board of Supervisors confirmed that the 1903 document referenced by DPW was "destroyed in the 1906 earthquake and resulting fire."

¹²² [CA Building Code \(2022\) 1113A.1](#) mandates sidewalk "surfaces shall be stable, firm and slip resistant."

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Code,¹²³ and SF Administrative Code¹²⁴ governing sidewalks, and violates Adverse Possession Law¹²⁵ and Constitutional Law¹²⁶ governing private property.

Because of the lack of jurisdiction to review the legality of ‘a violation notice converting a private easement to an unpaved sidewalk to mandate a Minor Sidewalk Encroachment permit,’ the Board of Appeals merely overruled the denial of the permit. The reinstatement of the Minor Sidewalk Encroachment Permit

¹²³ [SF Public Works Code §703](#) mandates sidewalks “shall be of concrete,” [§703.1](#) “brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material.” [SF Public Works Code §723](#) legislates “It shall be unlawful for any person, firm or corporation, to pile, cap, or otherwise obstruct or place obstructions or encroachments upon, above, or below, any public right-of-way.”

¹²⁴ [SF Admin. Code §80.4](#) legislates “Any thing or condition that obstructs the public way or commons is a public nuisance. Such public nuisances are prohibited within the City and no person shall create or participate in the creation or maintenance of such a public nuisance.”

¹²⁵ The City *cannot, by Law*, claim adverse possession of land that was not being devoted to a public purpose during the period that the City claimed to be an adverse possessor, as “[immunity] doctrine does not extend to subdivisions of the Commonwealth like counties or municipal governments when land is not being used for a public purpose. *Galdo* holds that leaving land vacant for potential future use does not count as such a public purpose for adverse possession purposes,” (Harvard’s Joseph Singer referencing [City of Philadelphia v. Galdo, 217 A. 3d 811 - Pa: Supreme Court 2019](#)) | Singer J. “[Adverse possession available against city when land was not being used for a public purpose.](#)” Harvard Law School. August 18, 2020. <https://faculty.law.harvard.edu/joseph-singer/2020/08/18/adverse-possession-available-against-city-when-land-was-not-being-used-for-a-public-purpose/>. Accessed in 2024, 4/3/2025, and 1/24/26).

¹²⁶ (1) Fifth Amendment, “no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation;” (2) Fourteenth Amendment, “nor shall any State deprive any person of life, liberty, or property, without due process of law;” and (3) CA Constitution Section 7 of Article I, “A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws.”

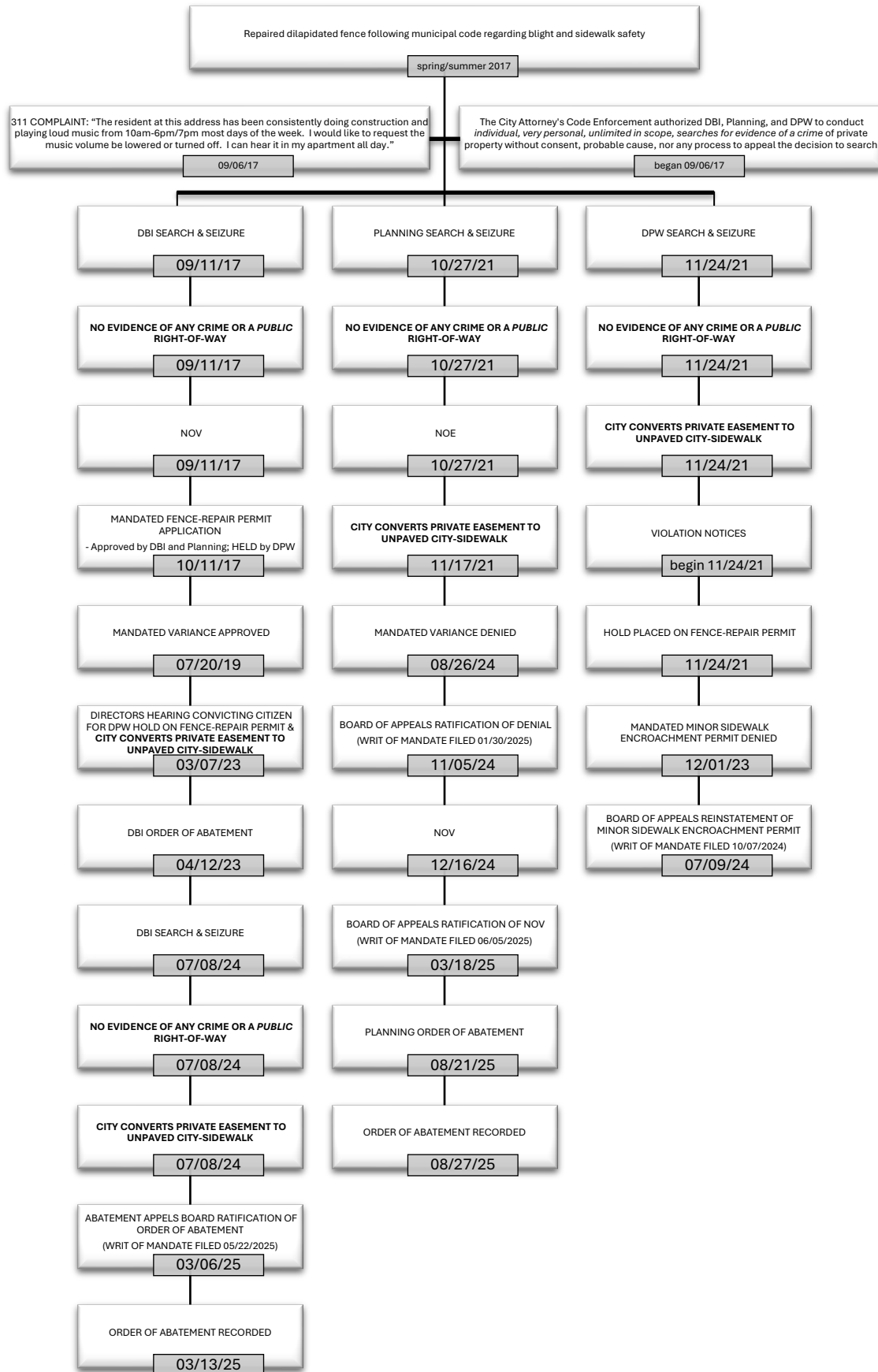
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effectually ratified the City's conversion of private property in excess of BOA jurisdiction. Commissioner Eppler confirmed this excess of BOA jurisdiction: "There's a question that was raised by the Appellant of whether this is public land or private land, and that is not a question that we're going to answer because that's a State Court question."¹²⁷ Writ of Mandate CPF-24-518717 was filed on October 7, 2024, for this decision in excess of jurisdiction, prejudicial abuse of discretion for a decision not supported by the evidence of the absence of a *public* right-of-way, DPW's prejudicial abuse of discretion for not proceeding in the manner required by law by falsifying evidence, and a lack of a fair trial.

H. TIMELINE OF CODE ENFORCEMENT ACTIONS

¹²⁷ June 26, 2024, Board of Appeals hearing, 01:02:50.

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I. AUTHORIZING DEPRIVATION OF FUNDAMENTAL RIGHTS INCLUDING DUE PROCESS VIOLATES ATTORNEYS' LEGAL DUTY

The City Attorney's management of and participation in Code Enforcement places the City Attorney as respondent and judge for City Claims, as respondent and judge during Board of Appeals hearings, and as respondent and judge during Abatement Appeals Board hearings, two practically and seriously inconsistent positions further negating due process, [Tumey v. Ohio, 273 US 510 - Supreme Court 1927](#),¹²⁸ CA CCP §1094.5,¹²⁹ which also establish a financial interest in searches/seizures, violation notices, claims' decisions, and administrative proceeding outcomes even further negating due process, CA Gov. Code §§ 87100, 87103.

The City's categorical deficiency of due process to challenge the factual and legal basis for searches and violation notices prescribes The Courts as the only purveyor of procedural due process.

The City Attorney's defiance/deprivation of due process is further evidenced by the City Attorney's defense of the City

¹²⁸ "A situation in which an official perforce occupies two practically and seriously inconsistent positions, one partisan and the other judicial, necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him."

¹²⁹ "The inquiry in such a case shall extend to the questions whether there was a fair trial, and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law."

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Attorney's management of Code Enforcement, establishing as client in this litigation *both* the City Attorney's management of Code Enforcement and their interest to criminalize safe property to deprive fundamental rights of privacy, liberty, property, due process, and equal protection, *and* the City and County of San Francisco and its interest to maintain safe property and prevent human disease, injury, and death, clients with directly adverse interests, [*Flatt, supra*, 9 Cal.4th at p. 284, fn. 3, 36 Cal. Rptr.2d 537, 885 P.2d 950](#)¹³⁰ as referenced by [*San Francisco v. Cobra Solutions, Inc.*, 135 P. 3d 20 - Cal: Supreme Court 2006](#).¹³¹ This unwaivable conflict-of-interest violates [State Bar Rules of Professional Conduct](#) because (A) competent and diligent representation cannot be provided to each client, CRPC 1.7(d)(1),¹³² as held by [*Klemm v. Superior Court*, 75 Cal. App. 3d 893 - Cal: Court of Appeal, 5th Appellate Dist. 1977](#),¹³³ (B) the

¹³⁰ "It is also an attorney's duty to protect his client in every possible way, and it is a violation of that duty for him to assume a position adverse or antagonistic to his client []. By virtue of this rule an attorney is precluded from assuming any relation which would prevent him from devoting his entire energies to his client's interests."

¹³¹ "An attorney who seeks to simultaneously represent clients with directly adverse interests in the same litigation will be automatically disqualified."

¹³² "Representation is permitted under this rule only if the lawyer reasonably believes* that the lawyer will be able to provide competent and diligent representation to each affected client."

¹³³ "As a matter of law a purported consent to dual representation of litigants with adverse interests at a contested hearing would be neither intelligent nor informed. Such representation would be per se inconsistent with the adversary position of an attorney in litigation, and common sense dictates that it would be unthinkable to permit an attorney to assume a position at a trial or hearing where he could not advocate the interests of one client without adversely injuring those of the other."

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representation of the City Attorney's Code Enforcement interest to deprive fundamental rights of privacy, liberty, property, due process, and equal protection is prohibited by law [CA BPC §6068\(a\)](#), [18 U.S.C. § 242](#), CRPC 1.7(d)(2),¹³⁴ and (C) this representation involves the City and County of SF's claim that Code Enforcement should maintain safe property to prevent human disease, injury, and death, which fundamentally contradicts the City Attorney's claim that their Code Enforcement can deprive fundamental rights of privacy, liberty, property, due process, and equal protection to criminalize safe property, CRPC 1.7(d)(3).¹³⁵ This unwaivable conflict-of-interest breaches the City Attorney's legal duty by mandating that *opposing counsel (this Plaintiff/Petitioner)*, rather than the City Attorney, represent City and County of SF's interest in public safety and due process, a fundamental denial of due process constituting a federal crime, [18 U.S.C. § 242](#).

A City Attorney violates the Fifth and Fourteenth Amendments, and [CA Constitution Section 7 of Article I](#), when they deny due process by (1) representing conflicting interests in the same litigation, by (2) demurring the *only* available and *necessary* due process (to challenge code enforcement searches and violation notices), by (3) manufacturing financial barriers to

¹³⁴ "Representation is permitted under this rule only if the representation is not prohibited by law."

¹³⁵ "Representation is permitted under this rule only if the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal."

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accessing writ relief, by (4) submitting falsified evidence/law, by (5) defying proper procedural due process, and by (6) defending municipal denial of due process from (a) government searches without substantive due process of probable cause, without procedural due process of warrant or consent, and without due process confines in area and duration, from (b) municipal convictions without any evidence of any crime, from (c) a categorical deficiency of due process to challenge government searches and municipal convictions, from (d) unfair proceedings with the City Attorney occupying two practically and seriously inconsistent positions as both judge and respondent, and from (e) the City Attorney's preservation of their financial interest in city searches/seizures, city convictions, city claims, and municipal proceedings negating due process, which are violations of an attorney's mandatory duty, [CA Business and Professions Code §6068\(a\)\(c\)\(d\)\(g\)\(h\)](#), violations of [CA State Bar Rules of Professional Conduct 8.4\(a\)\(b\)\(c\)\(d\)\(e\)\(f\)](#), 'the commission of an act involving moral turpitude, dishonesty or corruption constituting a cause for disbarment or suspension,' [CA BPC §6106](#), and federal crimes, [18 U.S.C. § 242](#), constituting malpractice, [CA Civil Code §1714\(a\)](#), CA Evidence Code §§ [668](#), [669](#), establishing municipal liability, [CA Government Code §815.6](#).

FACTS

A fact is a real event that happened, a true circumstance, or a physical thing that exists:

TABLE OF CONTESTED FACTS

Fact	Injury from deprivation of:	City's Challenge
Code Enforcement searches occurred.	Privacy Property	No search occurred.
Code Enforcement searches lack substantive due process of probable cause of a public-safety interest.	Privacy Property Due Process Equal Protection	No search occurred.
Code Enforcement searches lack procedural due process of a warrant or consent.	Privacy Property Due Process Equal Protection	No search occurred.
Code Enforcement searches lack due process confines in area and duration.	Privacy Property Due Process Equal Protection	No search occurred.
There is no procedural due process to challenge the City's decision to search.	Privacy Property Due Process Equal Protection	No search occurred.
Ingleside Terraces Neighborhood sidewalks are 6 ft. wide. It is a fact that the Ingleside Terraces neighborhood has 6-ft sidewalks and a 9-ft public utility easement (<i>private</i> right-of-way): ¹³⁶ (1) the	Liberty Property Due Process Equal Protection	Ingleside Terraces Neighborhood sidewalks are 15 ft. wide.

¹³⁶ The Law distinguishes between *public* and *private* rights-of-ways as held by CA Court of Appeals in [*County of Sacramento v. Pacific Gas & Elec. Co.*, 193 Cal. App. 3d 300 – Cal: Court of Appeal, 3rd Appellate Dist. 1987:](#)

“Long ago our Supreme Court made clear the difference between public and private rights of way: ‘Public ways, as applied to ways by land, are usually termed “highways” or “public roads,” and are such ways as every citizen has a right to use. A private way relates to that class of easements in which a particular person, or particular

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Fact	Injury from deprivation of:	City's Challenge
sidewalks measure 6-feet in width, (2) the 2024 Boundary Exhibit for our property, Exhibit O, confirms the 6-foot width of the sidewalks and adjacent location of the 9-foot easement, CA Gov. Code §66475 , ¹³⁷ and (3) Ingleside Terraces photographs <i>circa</i> 1912-1915 from SF Public Library History Center confirm 6-foot sidewalks with an adjacent private easement housing the public utility streetlights (image 1 , image 2 , image 3 , image 4 , image 5 , image 6).		
The 1903 ¹³⁸ and 1910 ordinances established 15-ft sidewalks for the Lakeside Neighborhood, when the land in question was <i>not</i> a neighborhood but was rather the Ingleside Racetrack. ¹³⁹	Liberty Property Due Process Equal Protection	The 1903 ¹⁴⁰ and 1910 ordinances established 15-ft sidewalks for the Ingleside Terraces Neighborhood.
Ingleside Terraces properties have a private	Liberty Property	The City owns the Ingleside Terraces private

description or class of persons, have an interest or right as distinguished from the general public.”

¹³⁷ “There may be imposed by local ordinance a requirement of dedication or irrevocable offer of dedication of real property within the subdivision for streets, alleys, including access rights and abutter’s rights, drainage, public utility easements and other public easements.”

¹³⁸ The Clerk of the Board of Supervisors confirmed that the 1903 document referenced by DPW was “destroyed in the 1906 earthquake and resulting fire.”

¹³⁹ The Ingleside Racetrack was not purchased by the Urban Realty Improvement Co. until 1911 and the Subdivision Map for the 792-house lots of Ingleside Terraces Neighborhood was not notarized by the City until April 24, 1912, Exhibits R, S. And the Lakeview Neighborhood streets listed in ordinance 1098, Exhibit P, are confirmed by the Lakeview Subdivision Map from 1908, Exhibit Q.

¹⁴⁰ The Clerk of the Board of Supervisors confirmed that the 1903 document referenced by DPW was “destroyed in the 1906 earthquake and resulting fire.”

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Fact	Injury from deprivation of:	City's Challenge
easement for public utility listed in Property Titles: (1) E.J. Morser's 1912 Subdivision Map of Ingleside Terraces' 792-house lots confirms the presence of the easement for a "sub-surface sewer right of way," Exhibits R, S, (2) the Historic Sanborn Map of our property shows water pipes located in the Public Utility Easement confirming the purpose of the private easement is for public utility, Exhibit C, and (3) California Land Title Association (CTLA) Report describes only one Easement, reserved for Public Utility, dated September 18, 1922, Exhibit B, CA Evidence Code §662 , ¹⁴¹ evidence also confirming the City's conversion of a private easement into a City-owned unpaved sidewalk, (void any public purpose), as fact.	Due Process Equal Protection	easement as an unpaved sidewalk, [which is conversion].
The front setback is located at the front-edge of the property.	Liberty Property Due Process Equal Protection	The front setback is located in the middle of the yard.
Our fence complies with municipal code.	Liberty Property Due Process Equal Protection	Code violations exist.
Our arbor/solarium complies with municipal code.	Liberty Property Due Process Equal Protection	Code violations exist.

¹⁴¹ "The owner of the legal title to property is presumed to be the owner of the full beneficial title."

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Fact	Injury from deprivation of:	City's Challenge
Our fire table complies with municipal code confirmed by Plumbing Permit #PW20150706557 "NEW GAS LINE FROM METER TO FIRE PIT" approved on 8/25/2015	Liberty Property Due Process Equal Protection	Code violations exist.
Our fence is safe property.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict for</i> unsafe property.
Our arbor/solarium is safe property.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict for</i> unsafe property.
Our fire table is safe property.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict for</i> unsafe property.
DBI violation notice is for a fence that adheres to building and safety code violating procedural due process.	Liberty Property Due Process Equal Protection	Code violations exist.
Planning violation notices are for an arbor/solarium that adheres to planning, building, and safety code violating procedural due process.	Liberty Property Due Process Equal Protection	Code violations exist.
DPW violation notices are for a non-existent unpaved sidewalk violating procedural due process.	Liberty Property Due Process Equal Protection	Code violations exist.
DBI violation notice is for a safe fence that benefits the public violating substantive due process.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are

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Fact	Injury from deprivation of:	City's Challenge
		adequate to <i>convict</i> for unsafe property.
Planning violation notices are for a safe arbor/solarium that benefits the public violating substantive due process.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict</i> for unsafe property.
DPW violation notices are for a private easement for which DPW has no jurisdiction violating substantive and procedural due process.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict</i> for unsafe property.
Administrative proceedings lack jurisdiction to cure unconstitutional searches and unlawful violation notices violating procedural due process.	Liberty Property Due Process Equal Protection	Administrative proceedings have jurisdiction to cure unconstitutional searches and unlawful violation notices.
Administrative proceedings lack a neutral judge as the City Attorney is both judge and respondent violating procedural due process.	Liberty Property Due Process Equal Protection	[Administrative proceedings maintain a neutral judge as the City Attorney is not both judge and respondent.]
Falsified evidence was submitted by code enforcement agents during administrative proceedings (Sixth Cause of Action) violating procedural due process.	Liberty Property Due Process Equal Protection	[No falsified evidence was submitted by code enforcement agents during administrative proceedings OR code enforcement agents can submit falsified evidence because they have immunity.]
Administrative-proceeding outcomes are ignorant of evidence, convicting innocent citizens in violation of substantive and procedural due process.	Liberty Property Due Process Equal Protection	[Administrative proceeding outcomes are not ignorant of evidence, so no innocent citizens are convicted.]
The City Attorney's management of code	Privacy Liberty	[The City Attorney's management of code

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Fact	Injury from deprivation of:	City's Challenge
enforcement centered on fines and fees for non-existent crime rather than centered on property safety, creates a financial interest in searches, violation notices, city claims, and administrative proceeding outcomes violating substantive and procedural due process.	Property Due Process Equal Protection	enforcement is not centered on fines and fees for non-existent crime so there is no financial interest in the fines and fees resulting from searches, violation notices, city claims, and administrative proceeding outcomes.]
Our family's fundamental interest is in safe property, not being convicted of a non-existent crime, and due process protection of innocence.	Privacy Liberty Property Due Process Equal Protection	The Plaintiff/Petitioner's interest is in maintaining unsafe property, getting away with maintaining unsafe property, and harming the public interest.
No unsafe property exists to justify code enforcement's deprivation of privacy, liberty, and property.	Privacy Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict for</i> unsafe property to justify code enforcement's deprivation of privacy, liberty, and property (irrespective of innocence).

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TABLE OF CONTESTED LAW

Rule of Law	Injury from deprivation of:	City's Challenge
Government searches are <i>not</i> negated by lack of trespass.	Privacy Property Due Process Equal Protection	Government searches are negated by lack of trespass.
Government searches are <i>not</i> negated by the type of evidence seized in a search.	Privacy Property Due Process Equal Protection	Government searches are negated based on the type of evidence seized.
Government searches for evidence of property crime or behavioral crime both deprive fundamental interests of privacy and property.	Privacy Property Due Process Equal Protection	Code enforcement searches are not searches and thus do not deprive fundamental interests.
Code Enforcement officers have discretion to search or not search a property. Code Enforcement officers do <i>not</i> have discretion to conduct unconstitutional searches. Code Enforcement officers have a mandatory duty to comply with our Constitutions and Laws.	Privacy Property Due Process Equal Protection	Code Enforcement Officers have immunity to violate the Constitutions and State Law.
Code enforcement agent's choice to conduct an unconstitutional search and seizure violates that employee's mandatory duty.	Privacy Property Due Process Equal Protection	[No searches occurred so there is no violation of a government agent's legal duty] And Code Enforcement Officers have immunity to violate the Constitutions and State Law
The City Attorney's authorization of unconstitutional searches	Privacy Property Due Process Equal Protection	[No searches occurred so there is no violation of Attorney's legal duty.]

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Rule of Law	Injury from deprivation of:	City's Challenge
and seizures violates City Attorney's legal duty.		
Allegations, convictions, and sentencing (violation notices) for safe property violate both substantive and procedural due process to deprive citizens of their fundamental rights of liberty and property.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict for</i> unsafe property (irrespective of innocence).
Code Enforcement officers have discretion to issue or not issue a violation notice. Code Enforcement officers do <i>not</i> have discretion to issue unlawful violation notices. Code Enforcement officers have a mandatory duty to comply with our Constitutions and Laws.	Liberty Property Due Process Equal Protection	Code Enforcement Officers have immunity to violate the Constitutions and State Law
Code enforcement agent's choice to issue a violation notice for safe property violates that employee's mandatory duty.	Liberty Property Due Process Equal Protection	Code Enforcement Officers have immunity to violate the Constitutions and State Law.
The City Attorney's authorization of unlawful violation notices for safe property violates City Attorney's legal duty.	Liberty Property Due Process Equal Protection	No evidence of unsafe property is needed because <i>alleged</i> code violations are adequate to <i>convict for</i> unsafe property (irrespective of innocence).
It is unlawful to require a permit to follow the law. ¹⁴²	Liberty Property	A permit is required to maintain safe property.

¹⁴² (1) requiring a permit to follow the law transforms the State's "self-executing" mandatory duty of [CA Civil Code §1714\(a\)](#) and mandatory duty of Substantive Due Process to uphold the public interest in safe property, into a City's discretionary decision to bar the mandatory-duty-to-maintain-safe-property by denying a permit to maintain safe property, defying Preemption and violating [CA Constitution Section 7 of Article XI](#), "A county or city may make and enforce within its limits all local,

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Rule of Law	Injury from deprivation of:	City's Challenge
	Due Process Equal Protection	
An unpaved City sidewalk leading to nowhere with a fence obstructing the paved sidewalk from the unpaved side violates CA Building Code, ¹⁴³ SF Public Works Code, ¹⁴⁴ and SF Administrative Code ¹⁴⁵ governing sidewalks, and violates Adverse Possession Law ¹⁴⁶ and Constitutional	Liberty Property Due Process Equal Protection	An unpaved City sidewalk leading to nowhere with a fence obstructing the paved sidewalk from the unpaved side is lawful.

police, sanitary, and other ordinances and regulations not in conflict with general laws.” (2) The Federal Supreme Court further holds that it is unlawful to require a permit to maintain safe property and follow the law: “A state may not impose a charge for the enjoyment of a right granted by the Federal Constitution... a person cannot be compelled ‘to purchase, through a license fee or a license tax, the privilege freely granted by the constitution.’¹⁹¹ [Blue Island v. Kozul](#), 379 Ill. 511, 519, 41 N.E.2d 515,” [Murdock v. Pennsylvania](#), 319 US 105 - Supreme Court 1943. And (3) requiring *permission* from the City to follow municipal codes and State and Constitutional Laws requiring safe property exceeds the jurisdiction and authority of Code Enforcement officers who are only endowed with “enforcement authority for health, safety, and welfare requirements,” [CA Penal Code §829.5](#), *not* authority to criminalize safe property by requiring a permit to maintain safe property.

¹⁴³ [CA Building Code \(2022\) 1113A.1](#) mandates sidewalk “surfaces shall be stable, firm and slip resistant.”

¹⁴⁴ [SF Public Works Code §703](#) mandates sidewalks “shall be of concrete,” [§703.1](#) “brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material.” [SF Public Works Code §723](#) legislates “It shall be unlawful for any person, firm or corporation, to pile, cap, or otherwise obstruct or place obstructions or encroachments upon, above, or below, any public right-of-way.”

¹⁴⁵ [SF Admin. Code §80.4](#) legislates “Any thing or condition that obstructs the public way or commons is a public nuisance. Such public nuisances are prohibited within the City and no person shall create or participate in the creation or maintenance of such a public nuisance.”

¹⁴⁶ The City *cannot, by Law*, claim adverse possession of land that was not being devoted to a public purpose during the period that the City claimed to be an adverse possessor, as “[immunity] doctrine does not extend to subdivisions of the Commonwealth like counties or municipal governments when land is not being used for a public purpose. *Galdo* holds that leaving land vacant for potential future use does not count as such a public purpose for adverse possession purposes,” (Harvard’s Joseph Singer referencing [City of Philadelphia v. Galdo](#), 217 A. 3d 811 - Pa: Supreme Court 2019) | Singer J. “[Adverse possession available against city when land was not being used for a public purpose](#).” Harvard Law School. August 18, 2020. <https://faculty.law.harvard.edu/joseph-singer/2020/08/18/adverse-possession->

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Rule of Law	Injury from deprivation of:	City's Challenge
Law ¹⁴⁷ governing private property.		

[available-against-city-when-land-was-not-being-used-for-a-public-purpose/](#). Accessed in 2024, 4/3/2025, and 1/24/26).

¹⁴⁷ (1) Fifth Amendment, “no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation;” (2) Fourteenth Amendment, “nor shall any State deprive any person of life, liberty, or property, without due process of law;” and (3) CA Constitution Article I §7(a), “A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws.”

ARGUMENT FOR RELIEF

I. Code Enforcement Agents' legal duty preserves due process, equal protection, and fundamental rights

[CA Penal Code §829.5](#) and our Constitutions outline the 'mandatory duties of a Code Enforcement agent,' [CA Civil Code §1714\(a\)](#).¹⁴⁸ The City's Code Enforcement Officers have "enforcement authority for health, safety, and welfare requirements," for which they must (1) conduct only lawful searches/seizures with substantive due process of a probable cause of unsafe property, with procedural due process of a warrant or consent, with due process confines in area and duration, and with procedural due process hearing to challenge the lawfulness of such a search/seizure, and must (2) file only lawful violation notices (allegation – conviction – sentencing for property crime) which must be predicated only on evidence of

¹⁴⁸ "Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person."

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unsafe property, [SF Administrative Code §80.5](#),¹⁴⁹ [SF Building Code §102A](#).¹⁵⁰

Code Enforcement officers have discretion to search or not search a property; Code Enforcement officers do *not* have discretion to conduct unconstitutional searches - Code Enforcement officers have a mandatory duty to comply with our Constitutions and Laws. And second, Code Enforcement officers have discretion to issue or not issue a violation notice; Code Enforcement officers do *not* have discretion to issue unlawful violation notices - Code Enforcement officers have a mandatory duty to comply with our Constitutions and Laws.

¹⁴⁹ *Evidence of unsafe property* is a mandatory provision of a violation notice: “Where the Director determines that any condition constitutes a blighted property, the Director shall issue a notice of violation to the property owner. At the time the notice of violation is issued, the Director shall take one or more photographs of the property showing the blighted conditions... The photographs shall be dated and retained as a part of the file for the violation... The burden of proof to establish that the property is blighted shall be on the City. The owner shall be entitled to present evidence and demonstrate that his or her property is not blighted.”

¹⁵⁰ *Evidence of unsafe property* is a mandatory provision of a violation notice: “When the Building Official observes or otherwise determines any condition which renders the building, structure or property unsafe, the Building Official shall, within 15 days, serve a Notice of Municipal Code Violation (“NOV”) upon the building owner... The NOV shall identify [] the violations which render the building, structure or property unsafe,” [SFBC §102A.4](#).

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SF Code Enforcement agents violate the Fourth,¹⁵¹ Fifth¹⁵² and Fourteenth¹⁵³ Amendments, and [CA Constitution Article I §7\(a\)](#),¹⁵⁴ when they willfully deny due process and equal protection by (1) conducting government searches without substantive due process of probable cause of unsafe property, without procedural due process of warrant or consent, and without due process confines in area and duration, by (2) falsifying evidence to allege, convict, and sentence innocent citizens for maintaining safe property, by (3) falsifying evidence to convert private property to a City-owned unpaved sidewalk leading to nowhere to further deprive citizens their liberty and property (dominion | privacy), by (4) convicting some safe property without convicting all safe property in violation of equal protection, and by (5) maintaining a categorical deficiency of due process to challenge Code Enforcement searches and refute Code Enforcement convictions for non-existent crime a further violation of equal protection, which are federal crimes, [18 U.S.C. § 242](#), [18 U.S.C. §241](#), [18 U.S. Code §1962](#), and State crimes, [CA](#)

¹⁵¹ “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

¹⁵² “No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

¹⁵³ “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

¹⁵⁴ “A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws.”

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[Civil Code §52.1](#), establishing City and County liability for profound injury from unlawful deprivation of fundamental rights of due process, equal protection, liberty, and property (dominion | privacy) without any valid government interest in public safety, [CA Evidence Code §668](#),¹⁵⁵ [CA Evidence Code §669](#),¹⁵⁶ [18 U.S. Code §242](#),¹⁵⁷ [18 U.S.C. §241](#),¹⁵⁸ [42 U.S. Code §1983](#),¹⁵⁹ [42 U.S.](#)

¹⁵⁵ “An unlawful intent is presumed from the doing of an unlawful act.”

¹⁵⁶ “The failure of a code enforcement agent to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

¹⁵⁷ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

¹⁵⁸ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

¹⁵⁹ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

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[Code §1981](#),¹⁶⁰ [42 U.S. Code §1985](#),¹⁶¹ [18 U.S. Code §1962](#),¹⁶² and [CA Civil Code §52.1](#).¹⁶³

II. Attorney’s legal duty preserves due process, equal protection, and fundamental rights

[CA Business and Professions Code §6068](#) outlines the “mandatory duties of an attorney,” [CA Civil Code §1714\(a\)](#):¹⁶⁴ “It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are

¹⁶⁰ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

¹⁶¹ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

¹⁶² “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

¹⁶³ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

¹⁶⁴ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

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consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.”

[CA Business and Professions Code §6068](#) mandates “it is the duty of an attorney to do all of the following...” CA Business and Professions Code §6068 does *not* state that “the following” are discretionary duties that an attorney may exercise or not as they choose.

And an attorney commits malpractice when they breach their statutorily prescribed mandatory duty, [CA Evidence Code §668](#),¹⁶⁵ [CA Evidence Code §669](#),¹⁶⁶ [18 U.S. Code §242](#),¹⁶⁷ [18](#)

¹⁶⁵ “An unlawful intent is presumed from the doing of an unlawful act.”

¹⁶⁶ ‘The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

¹⁶⁷ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Common wealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

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[U.S.C. §241](#),¹⁶⁸ [42 U.S. Code §1983](#),¹⁶⁹ [42 U.S. Code §1985](#),¹⁷⁰ [18 U.S. Code §1962](#),¹⁷¹ and [CA Civil Code §52.1](#),¹⁷² and [Zamora v. Clayborn Contracting Group, Inc.](#), 47 P. 3d 1056 - Cal: Supreme Court 2002's holding that "conduct falling below the professional standard of care [] is not therefore excusable. To hold otherwise would be to eliminate the express statutory requirement of

¹⁶⁸ "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both."

¹⁶⁹ "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

¹⁷⁰ "If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."

¹⁷¹ "It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise."

¹⁷² "Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b)."

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excusability and effectively eviscerate the concept of attorney malpractice.”

III. Government attorney’s legal duty further preserves due process, equal protection, and fundamental rights

In addition to the legal duties of an attorney, a *city* attorney, as a public official of local government, has additional “mandatory duties” to protect due process, [CA Government Code §815.6](#),¹⁷³ by ‘not making, participate in making, or in any way attempting to use the City Attorney’s official position to influence a government (Code Enforcement) decision in which the City Attorney knows or has reason to know the City Attorney has a financial interest,’ [CA Government Code §87100](#).

And being a public official of local government further solidifies as mandatory the City Attorney’s duty to follow constitutional provisions, [CA Government Code §815.6](#), as our Supreme Court has consistently held: “Article I, section 26 of the California Constitution states: ‘The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.’ Under this provision, ‘all branches of government are required to comply with constitutional directives,’” [Katzberg v. Regents of University of](#)

¹⁷³ “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.”

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[Cal., 58 P. 3d 339 - Cal: Supreme Court 2002.](#) And “if the Government becomes a law-breaker, it breeds contempt for law, it invites everyman to become a law unto himself; it invites anarchy,” [People v. Cahan, 282 P. 2d 905 - Cal: Supreme Court 1955.](#)

Therefore, a government attorney commits malpractice, [CA Evidence Code §668,](#)¹⁷⁴ [CA Evidence Code §669,](#)¹⁷⁵ [18 U.S. Code §242,](#)¹⁷⁶ [18 U.S.C. §241,](#)¹⁷⁷ [42 U.S. Code §1983,](#)¹⁷⁸ [42 U.S. Code](#)

¹⁷⁴ “An unlawful intent is presumed from the doing of an unlawful act.”

¹⁷⁵ “The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

¹⁷⁶ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

¹⁷⁷ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

¹⁷⁸ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

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[§1981](#),¹⁷⁹ [42 U.S. Code §1985](#),¹⁸⁰ [18 U.S. Code §1962](#),¹⁸¹ and [CA Civil Code §52.1](#),¹⁸² when they breach their mandatory duty statutorily prescribed by [CA Business and Professions Code §6068](#),¹⁸³ [CA Civil Code §1714\(a\)](#),¹⁸⁴ and [CA State Bar Rules of](#)

¹⁷⁹ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

¹⁸⁰ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

¹⁸¹ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

¹⁸² “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

¹⁸³ “It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.”

¹⁸⁴ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

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[Professional Conduct 8.4](#),¹⁸⁵ including and especially the protection and preservation of fundamental rights of due process, equal protection, liberty, and property (dominion | privacy) mandatorily prescribed by Fourth, Fifth, and Fourteenth Amendments, [CA Constitution Section 7 of Article I](#), and CA Government Code §§ 87100, 87103, which also establishes government liability for such breach of duty, [42 U.S. Code §1983](#),¹⁸⁶ [42 U.S. Code §1981](#),¹⁸⁷ [42 U.S. Code §1985](#),¹⁸⁸ [18 U.S.](#)

¹⁸⁵ “It is professional misconduct for a lawyer to: (a) violate these rules or the State Bar Act, knowingly* assist, solicit, or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice; (e) state or imply an ability to influence improperly a government agency or official, or to achieve results by means that violate these rules, the State Bar Act, or other law; or (f) knowingly* assist, solicit, or induce a judge or judicial officer in conduct that is a violation of an applicable code of judicial ethics or code of judicial conduct, or other law.”

¹⁸⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

¹⁸⁷ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

¹⁸⁸ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

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[Code §1964](#),¹⁸⁹ [CA Government Code §815.6](#),¹⁹⁰ and [CA Civil Code §52.1](#).¹⁹¹ and establishes attorney-license liability, “the commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension [and] conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from

¹⁸⁹ “Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee.”

¹⁹⁰ “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.”

¹⁹¹ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

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practice therefor,” [CA BPC 6106](#), [18 U.S. Code §242](#),¹⁹² [18 U.S.C. §241](#),¹⁹³ [18 U.S. Code §1962](#).¹⁹⁴

III. Managing a government program that deprives fundamental rights violates an attorney’s legal duty

The San Francisco City Attorney manages Code Enforcement (<https://sfcityattorney.org/code/>). The purpose of Code Enforcement is to fulfill the public interest in safe property to prevent disease, injury, and death, which is the Substantive Due Process¹⁹⁵ mandatory-provision of the Fourth, Fifth, and Fourteenth Amendments, and CA Constitution Section 7 of Article I. However, the City Attorney authorizes (1) *individual, very personal, unlimited in scope, searches for evidence of a crime*

¹⁹² “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

¹⁹³ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

¹⁹⁴ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

¹⁹⁵ [Camara v. Municipal Court of City and County of San Francisco, 387 US 523 - Supreme Court 1967](#): “The primary governmental interest at stake is to prevent even the unintentional development of conditions which are hazardous to public health and safety.”

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(deprivation of privacy and property) without substantive due process of probable cause of a public interest, without procedural due process of consent or warrant, without any due process confines in area and duration, and without any procedural due process to challenge the decision to search (deprivations of due process and equal protection); and the City Attorney authorizes (2) legally irrational violation notices, *allegation* (deprivation of liberty), *conviction* (deprivation of liberty), *sentencing* (deprivation of property) *for safe property*, predicated on false claims, predicated on an absence of any evidence of a building or safety code violation, predicated on the absence of any evidence of unsafe property, predicated on a non-existent public right-of-way, resulting from unconstitutional searches of private property to unlawfully seize knowledge of conditions of that property, and with a categorical deficiency of due process to refute the charges of property crime, condemning citizens guilty-until-proven-innocent with no opportunity to prove innocence (deprivations of due process and equal protection) causing profound harm.

The City Attorney (1) violates the Fourth, Fifth, and Fourteenth Amendments, and [CA Constitution Section 7 of Article I](#), when they, without any public-safety interest in the deprivation, authorize deprivation of fundamental rights of property (dominion | privacy), liberty, due process, and equal protection through unconstitutional code-enforcement searches, unlawful violation notices with a categorical deficiency of substantive due process, procedural due process, and equal protection. The City Attorney's Code Enforcement also (2)

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violates CA Government Code §§ [87100](#), [87103](#) by (a) extracting fees for *alleged property crime* mandating permits, hearings, variances, and abatements which in this case alone has exceeded \$165,354.25 for *following the law and maintaining safe property*, Exhibit M, and (b) converting private property to City property without any public purpose and in violation of Constitutional and property law, ensuring a financial interest in Code Enforcement's searches/seizures and violation notices (convictions), decisions which have a material effect on the departments of Building, Planning, and Public Works under the City Attorney's management (<https://sfcityattorney.org/code/>). These violations of an attorney's mandatory duty, [CA Business and Professions Code §6068](#),¹⁹⁶ [CA Civil Code §1714\(a\)](#),¹⁹⁷ and violations of [CA State Bar Rules of Professional Conduct 8.4](#),¹⁹⁸ are also 'the commission

¹⁹⁶ "It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed."

¹⁹⁷ "Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person."

¹⁹⁸ "It is professional misconduct for a lawyer to: (a) violate these rules or the State Bar Act, knowingly* assist, solicit, or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice; (e) state or imply an ability to influence improperly a government agency or official, or to achieve results by means that violate these rules, the State Bar Act, or other law; or (f) knowingly* assist, solicit, or induce a judge or judicial officer in conduct that

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of an act involving moral turpitude, dishonesty or corruption constituting a cause for disbarment or suspension,' [CA BPC §6106](#),¹⁹⁹ and are federal crimes, [18 U.S. Code §242](#),²⁰⁰ [18 U.S.C. §241](#),²⁰¹ [18 U.S. Code §1962](#),²⁰² constituting malpractice, [CA Civil Code §1714\(a\)](#),²⁰³ [CA Evidence Code §668](#),²⁰⁴ [CA Evidence Code §669](#),²⁰⁵ which also establish municipal liability, [42 U.S. Code](#)

is a violation of an applicable code of judicial ethics or code of judicial conduct, or other law.”

¹⁹⁹ “The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension [and] conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.”

²⁰⁰ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

²⁰¹ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

²⁰² “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

²⁰³ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

²⁰⁴ “An unlawful intent is presumed from the doing of an unlawful act.”

²⁰⁵ “The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his

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[§1983](#),²⁰⁶ [42 U.S. Code §1981](#),²⁰⁷ [42 U.S. Code §1985](#),²⁰⁸ [18 U.S. Code §1964](#),²⁰⁹ [CA Government Code §815.6](#),²¹⁰ [CA Civil Code §52.1](#).²¹¹

person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

²⁰⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

²⁰⁷ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

²⁰⁸ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

²⁰⁹ “Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee.”

²¹⁰ “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.”

²¹¹ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory

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IV. Ratifying a government program that deprives fundamental rights violates an attorney's legal duty

The San Francisco City Attorney participates in Code Enforcement proceedings by providing legal counsel to the Board of Appeals, to the Abatement Appeals Board, and for City Claims, <https://sfcityattorney.org/aboutus/legal-teams/>. And when the City Attorney's management of Code Enforcement is the subject of a City Claim or a hearing at the Board of Appeals or Abatement Appeals Board, the City Attorney's legal counsel to the Judge of that claim/hearing allows the City Attorney to occupy two practically and seriously inconsistent positions as both respondent and judge negating due process and violating the mandatory duty of an attorney to follow the Constitutions, CA law, and State Bar Rules of Professional Conduct,²¹² as fundamentally held by [*Tumey v. Ohio*, 273 US 510 - Supreme](#)

relief to eliminate a pattern or practice of conduct as described in subdivision (b)."

²¹² Rule 8.4(d): "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice."

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Court 1927,²¹³ CA CCP §1094.5,²¹⁴ and CA Gov. Code §§ 87100,²¹⁵ 87103.²¹⁶

The City Attorney (<https://sfcityattorney.org/aboutus/legal-teams/>) (1) violates the Fifth and Fourteenth Amendments, and CA Constitution Section 7 of Article I, when they provide legal counsel to the Board of Appeals, the Abatement Appeals Board, and for City Claims to (a) ratify their own Code Enforcement's deprivation of fundamental rights of property (dominion | privacy), liberty, due process, and equal protection from unconstitutional code enforcement searches, unlawful violation notices, and categorical deficiency of due process, and to (b) occupy two practically and seriously inconsistent positions as both respondent and judge negating due process. And the City Attorney (2) further violates CA Government Code §87100 when that City Attorney ratifies their management of Code

²¹³ "A situation in which an official performs two practically and seriously inconsistent positions, one partisan and the other judicial, necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him."

²¹⁴ "The inquiry in such a case shall extend to the questions whether there was a fair trial, and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law."

²¹⁵ "A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest."

²¹⁶ "A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management."

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Enforcement by providing legal counsel for City Claims about Code Enforcement, by providing legal counsel for Board of Appeals' decisions about Code Enforcement, and by providing legal counsel for Abatement Appeals Board's decisions about Code Enforcement, decisions which have a material effect on the departments of Building, Planning, and Public Works under the City Attorney's management (<https://sfcityattorney.org/code/>). These violations of an attorney's mandatory duty, [CA Business and Professions Code §6068](#),²¹⁷ [CA Civil Code §1714\(a\)](#),²¹⁸ and violations of [CA State Bar Rules of Professional Conduct 8.4](#),²¹⁹ are also 'the commission of an act involving moral turpitude,

²¹⁷ "It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed."

²¹⁸ "Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person."

²¹⁹ "It is professional misconduct for a lawyer to: (a) violate these rules or the State Bar Act, knowingly* assist, solicit, or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice; (e) state or imply an ability to influence improperly a government agency or official, or to achieve results by means that violate these rules, the State Bar Act, or other law; or (f) knowingly* assist, solicit, or induce a judge or judicial officer in conduct that is a violation of an applicable code of judicial ethics or code of judicial conduct, or other law."

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dishonesty or corruption constituting a cause for disbarment or suspension,’ [CA BPC §6106](#),²²⁰ and are federal crimes, [18 U.S. Code §242](#),²²¹ [18 U.S.C. §241](#),²²² [18 U.S. Code §1962](#),²²³ constituting malpractice, [CA Civil Code §1714\(a\)](#),²²⁴ [CA Evidence Code §668](#),²²⁵ [CA Evidence Code §669](#),²²⁶ which also establish

²²⁰ “The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension [and] conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.”

²²¹ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

²²² “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

²²³ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

²²⁴ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

²²⁵ “An unlawful intent is presumed from the doing of an unlawful act.”

²²⁶ “The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.”

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municipal liability, [42 U.S. Code §1983](#),²²⁷ [42 U.S. Code §1981](#),²²⁸ [42 U.S. Code §1985](#),²²⁹ [18 U.S. Code §1964](#),²³⁰ [CA Government Code §815.6](#),²³¹ [CA Civil Code §52.1](#).²³²

²²⁷ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

²²⁸ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

²²⁹ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

²³⁰ “Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee.”

²³¹ “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.”

²³² “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b).”

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V. Defending a government program that deprives fundamental rights violates an attorney's legal duty

First, because truth (the foundation of democracy) is the exclusive asset of justice, injustice can only be defended with falsification of evidence/law (negating due process), in violation of an attorney's legal duty as evidenced by the City Attorney's defense of their Code Enforcement (which deprives fundamental rights) during both the City's administrative hearings as well as during trial court proceedings.

It is a fact that the Ingleside Terraces neighborhood has 6-ft sidewalks and a 9-ft public utility easement (*private* right-of-way);²³³ (1) the sidewalks measure 6-feet in width, (2) the 2024 Boundary Exhibit for our property, Exhibit O, confirms the 6-foot width of the sidewalks and adjacent location of the 9-foot easement, [CA Gov. Code §66475](#),²³⁴ (3) E.J. Morser's 1912 Subdivision Map of Ingleside Terraces' 792-house lots confirms

²³³ The Law distinguishes between *public* and *private* rights-of-ways as held by CA Court of Appeals in [County of Sacramento v. Pacific Gas & Elec. Co.](#), 193 Cal. App. 3d 300 – Cal: Court of Appeal, 3rd Appellate Dist. 1987:

“Long ago our Supreme Court made clear the difference between public and private rights of way: ‘Public ways, as applied to ways by land, are usually termed “highways” or “public roads,” and are such ways as every citizen has a right to use. A private way relates to that class of easements in which a particular person, or particular description or class of persons, have an interest or right as distinguished from the general public.’”

²³⁴ “There may be imposed by local ordinance a requirement of dedication or irrevocable offer of dedication of real property within the subdivision for streets, alleys, including access rights and abutter's rights, drainage, public utility easements and other public easements.”

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the presence of the easement for a “sub-surface sewer right of way,” Exhibits R, S, (4) the [Historic Sanborn Map of our property](#) shows water pipes located in the Public Utility Easement confirming the purpose of the private easement is for public utility, Exhibit C, (5) Ingleside Terraces photographs *circa* 1912-1915 from SF Public Library History Center confirm 6-foot sidewalks with an adjacent private easement housing the public utility streetlights ([image 1](#), [image 2](#), [image 3](#), [image 4](#), [image 5](#), [image 6](#)), and (5) California Land Title Association (CTLA) Report describes only one Easement, reserved for Public Utility, dated September 18, 1922, Exhibit B, [CA Evidence Code §662](#);²³⁵ (evidence also confirming the City’s conversion of a private easement into a City-owned unpaved sidewalk (void any public purpose) as fact).

However, during Board of Appeals’ hearings, the Respondent DPW falsely claimed that the Ingleside Terraces’ 6-ft sidewalk and 9-ft private easement were *instead* a 15-ft sidewalk of which 9-ft was unpaved and leading to nowhere, and with a fence obstructing the paved from the unpaved side.²³⁶ DPW’s

²³⁵ “The owner of the legal title to property is presumed to be the owner of the full beneficial title.”

²³⁶ DPW’s Nicolas Huff, PE, Bureau Manager’s brief (Exhibit AK) for the February 7, 2024, Board of Appeals’ Hearing, *falsely asserts*:

“The official sidewalk width for this portion of Ashton Ave. is 15 feet and was established by Ordinance 1098 on March 9, 1910. The sidewalk width along Holloway Ave. is 15 feet and was established in 1903... the official sidewalk width may or may not be paved with concrete. As can be seen in Figure 1(a), only a portion of the official 15 foot sidewalk on both Ashton and Holloway Avenues is paved and the remainder has been

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purpose of converting the private easement into a City-owned unpaved sidewalk is to unlawfully mandate numerous permits relevant to sidewalks (*public* rights-of-way).²³⁷ DPW's claim of an unpaved City sidewalk leading to nowhere with a fence obstructing the paved sidewalk from the unpaved side violates

occupied with various improvements associated with the fronting properties."

However, it is a fact that the 1903 ordinance (destroyed in the 1906 earthquake and resulting fire) and 1910 ordinance that DPW claimed established 15-ft sidewalks for the Ingleside Terraces Neighborhood, were created when the land in question was *not* a neighborhood but was rather the Ingleside Racetrack. The Ingleside Racetrack was not purchased by the Urban Realty Improvement Co. until 1911 and the Subdivision Map for the 792-house lots of Ingleside Terraces Neighborhood was not notarized by the City until April 24, 1912, Exhibits R, S. And the Lakeview Neighborhood streets listed in ordinance 1098, Exhibit P, are confirmed by the Lakeview Subdivision Map from 1908, Exhibit Q.

²³⁷ DPW Kevin Li's February 3, 2022, emailed violation notice (Exhibit G) *falsely asserts*:

"The Planning Department Zoning Variance (front setback variance) only applies to fences within your property line as specified in the variance decision document. Planning does not have jurisdiction in the public right-of-way. All other portions of the fence are located in the public right-of-way and subject to DPW's requirements. Thus, DPW's fence height and location requests supersede any other department.

As I mentioned above, the public right-of-way is DPW's jurisdiction and subject to DPW requirements and thus supersedes Building Departments issuance of a 2015 plumbing permit for the gas fire table located in the right-of-way. Under that permit, you are only allowed to have the gas fire table within your property line. Since the gas fire table is currently not within your property line, you are required to acquire a building permit with plans and another plumbing permit to correct this.

In addition, you are required to acquire a DPW General Excavation permit to remove the gas line and pergola and restore the right-of-way to City Standards."

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CA Building Code,²³⁸ SF Public Works Code,²³⁹ and SF Administrative Code²⁴⁰ governing sidewalks, and violates Adverse Possession Law²⁴¹ and Constitutional Law²⁴² governing private property. Despite DPW's legally irrational claims that also violate the law, (1) City Attorney Jen Huber misled the Board of Appeals ([February 7, 2024 at 57 min, 38 sec](#)): "according to City records, the land [private easement] is owned by the

²³⁸ [CA Building Code \(2022\) 1113A.1](#) mandates sidewalk "surfaces shall be stable, firm and slip resistant."

²³⁹ [SF Public Works Code §703](#) mandates sidewalks "shall be of concrete," [§703.1](#) "brick, quarry-tile, exposed concrete aggregate, or other commonly-used sidewalk paving material." [SF Public Works Code §723](#) legislates "It shall be unlawful for any person, firm or corporation, to pile, cap, or otherwise obstruct or place obstructions or encroachments upon, above, or below, any public right-of-way."

²⁴⁰ [SF Admin. Code §80.4](#) legislates "Any thing or condition that obstructs the public way or commons is a public nuisance. Such public nuisances are prohibited within the City and no person shall create or participate in the creation or maintenance of such a public nuisance."

²⁴¹ The City *cannot, by Law*, claim adverse possession of land that was not being devoted to a public purpose during the period that the City claimed to be an adverse possessor, as "[immunity] doctrine does not extend to subdivisions of the Commonwealth like counties or municipal governments when land is not being used for a public purpose. *Galdo* holds that leaving land vacant for potential future use does not count as such a public purpose for adverse possession purposes," (Harvard's Joseph Singer referencing [City of Philadelphia v. Galdo, 217 A. 3d 811 - Pa: Supreme Court 2019](#)) | Singer J. "[Adverse possession available against city when land was not being used for a public purpose.](#)" Harvard Law School. August 18, 2020. <https://faculty.law.harvard.edu/joseph-singer/2020/08/18/adverse-possession-available-against-city-when-land-was-not-being-used-for-a-public-purpose/>. Accessed in 2024, 4/3/2025, and 1/24/26).

²⁴² (1) Fifth Amendment, "no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation;" (2) Fourteenth Amendment, "nor shall any State deprive any person of life, liberty, or property, without due process of law;" and (3) CA Constitution Section 7 of Article I, "A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws."

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City;” (2) Deputy City Attorney Thomas S. Lakritz misled the Federal trial Court with (a) Motion and Motion for Judgment on January 6, 2023, and with (b) Motion to Dismiss on April 25, 2023, and misled the Superior Court with (c) demurrer on August 30, 2023, and with (d) demurrer on January 2, 2024: “the public right-of-way extends 15’ feet from the curb;” (3) Deputy City Attorney Raymond Rollan misled the Superior Court with demurrer on May 17, 2024: “the public right-of-way extends 15’ feet from the curb;” and (4) Deputy City Attorney Brian F. Crossman misled the Superior Court with demurrer on December 19, 2024: “the Department of Public Works (“DPW”) inspected the street frontage of Plaintiff’s home, and discovered [] encroach[ments] into the public right of way... the public right-of-way extends 15 feet from the curb.”

A City Attorney commits a crime against public justice when they falsify evidence such as claiming a 6-ft sidewalk is instead 15-ft which is a felony, [CA Penal Code §134](#),²⁴³ violating an attorney’s mandatory duty, [CA Business and Professions Code](#)

²⁴³ “Every person guilty of preparing any false or ante-dated book, paper, record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced for any fraudulent or deceitful purpose, as genuine or true, upon any trial, proceeding, or inquiry whatever, authorized by law, is guilty of felony.”

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[§6068](#),²⁴⁴ [CA Civil Code §1714\(a\)](#),²⁴⁵ and violating [CA State Bar Rules of Professional Conduct 8.4](#),²⁴⁶ felony which is also ‘the commission of an act involving moral turpitude, dishonesty or corruption constituting a cause for disbarment or suspension,’ [CA BPC §6106](#),²⁴⁷ and are federal crimes, [18 U.S. Code §242](#),²⁴⁸ [18](#)

²⁴⁴ “It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.”

²⁴⁵ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

²⁴⁶ “It is professional misconduct for a lawyer to: (a) violate these rules or the State Bar Act, knowingly* assist, solicit, or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice; (e) state or imply an ability to influence improperly a government agency or official, or to achieve results by means that violate these rules, the State Bar Act, or other law; or (f) knowingly* assist, solicit, or induce a judge or judicial officer in conduct that is a violation of an applicable code of judicial ethics or code of judicial conduct, or other law.”

²⁴⁷ “The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension [and] conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.”

²⁴⁸ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United

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[U.S.C. §241](#),²⁴⁹ [18 U.S. Code §1962](#),²⁵⁰ constituting malpractice, [CA Civil Code §1714\(a\)](#),²⁵¹ [CA Evidence Code §668](#),²⁵² [CA Evidence Code §669](#),²⁵³ which also establish municipal liability, [42 U.S. Code §1983](#),²⁵⁴ [42 U.S. Code §1981](#),²⁵⁵ [42 U.S. Code](#)

States, shall be fined under this title or imprisoned not more than one year, or both.”

²⁴⁹ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

²⁵⁰ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

²⁵¹ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

²⁵² “An unlawful intent is presumed from the doing of an unlawful act.”

²⁵³ “The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.”

²⁵⁴ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

²⁵⁵ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

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[§1985](#),²⁵⁶ [18 U.S. Code §1964](#),²⁵⁷ [CA Government Code §815.6](#),²⁵⁸
[CA Civil Code §52.1](#).²⁵⁹

And so far, the City Attorney has been allowed to submit falsified evidence to the trial courts to infuse bias and malfeasance to deny due process (for which Writ of Review was filed with the CA Supreme Court challenging the trial court's complicity with attorney malpractice, Case No: S295680), despite rule of law that "It is morally incongruous for the state to flout constitutional rights and at the same time demand that its

²⁵⁶ "If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators."

²⁵⁷ "Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

²⁵⁸ "Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

²⁵⁹ "Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b)."

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citizens observe the law... any process of law that sanctions the imposition of penalties upon an individual through the use of the fruits of official lawlessness tends to the destruction of the whole system of restraints on the exercise of the public force that are inherent in the ‘concept of ordered liberty,’” [*People v. Cahan*, 282 P. 2d 905 - Cal: Supreme Court 1955](#).

Second, because due process is the purveyor of justice, injustice can only be championed through the annihilation of due process in violation of an attorney’s legal duty, as evidenced by the City Attorney’s defense of their Code Enforcement (which deprives fundamental rights) during trial court proceedings.

It is a fact that there is no procedural due process to challenge the constitutionality of Code Enforcement searches/seizures of private property, nor to refute Code Enforcement allegations, convictions, and sentencing for non-existent crime, as confirmed by Nicolas Huff, DPW Bureau Manager of Street-Use & Mapping, on June 13, 2022:

“The application of the codes has been long established and isn’t open to mediation. If you would like to pursue a legal avenue you can reach out to your representative with the Board of Supervisors for special Major Encroachment legislation. If legislation is not possible you can file for litigation with the City.”

It is a fact that the administrative proceedings available lack jurisdiction²⁶⁰ to cure unconstitutional searches/seizures and

²⁶⁰ Board of Appeals answers questions about permits and Zoning Administrator decisions, [SF City Charter §4.106](#), Abatement Appeals Board answers questions about abatements, [SF Building Code §105A.2](#), and DBI

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unlawful violation notices. It is a fact that because administrative proceedings lack jurisdiction, CA CCP §1094.5, to determine the constitutionality of City searches/seizures and lawfulness of violation notices, the proceedings *assume*-constitutional the City's searches/seizures and *assume*-lawful violation notices, *a presumption-of-guilt defying due process*, [Marshall v. Jerrico, Inc., 446 US 238 - Supreme Court 1980](#),²⁶¹ [CA Penal Code §1096](#),²⁶² and establishing decisions ignorant of evidence, [CA Penal Code §871](#),²⁶³ [CCP §1094.5](#),²⁶⁴ (for which Writs of Mandate, CPF-24-518717 | CPF-25-518888 | CPF-25-519122 | CPF-25-519138, have been filed). It is a fact that because administrative proceedings lack jurisdiction to determine the constitutionality of City searches/seizures and the lawfulness

Director's hearings answer questions about why mandated permits remain unresolved, [SFBC §102A.5](#). None of these hearings have jurisdiction to determine if City searches are constitutional nor if violation notices are lawful.

²⁶¹ The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decisionmaking process... ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him."

²⁶² "A defendant in a criminal action is presumed to be innocent until the contrary is proved."

²⁶³ "If, after hearing the proofs, it appears either that no public offense has been committed or that there is not sufficient cause to believe the defendant guilty of a public offense, the magistrate shall order the complaint dismissed and the defendant to be discharged."

²⁶⁴ "Abuse of discretion is established if the order or decision is not supported by the findings, or the findings are not supported by the evidence."

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of violation notices, The Courts provide the *only* and *necessary* procedural due process required by our Constitutions to determine the constitutionality of these searches/seizures and the lawfulness of these violation notices.

(1 of 4) Because The Courts provide the only and necessary due process mandatorily required by both State and Federal Constitutions, filing a Motion to Dismiss and filing a Demurrer to completely annihilate due process to challenge the constitutionality of Code Enforcement searches/seizures and to refute the legality of Code Enforcement convictions for maintaining safe property is a federal crime, [18 U.S. Code §242](#),²⁶⁵ [18 U.S.C. §241](#).²⁶⁶

(2 of 4) The City Attorney's deprivation of due process was evidenced with their March 6, 2025, counsel that 'in order for our family to file a Writ of Mandate we are required to pay the City and County of San Francisco \$50,000 to \$100,000 to prepare an administrative record with check sent c/o the City Attorney,' Exhibit VV, Exhibit XX, counsel which falsifies law to

²⁶⁵ "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both."

²⁶⁶ "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both."

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manufacture a financial barrier to due-process writ relief, a federal crime, [18 U.S. Code §242](#),²⁶⁷ [18 U.S.C. §241](#).²⁶⁸

(3 of 4) On September 25, 2025 the City Attorney defaulted after invalidating their own stipulation (‘that the City’s “Notice of Entry of Order” allows the City 40 days to respond to an amended complaint’) by not signing their own stipulation (Exhibit BQ), [Beck v. American Health Group Internat., Inc., 211 Cal. App. 3d 1555 - Cal: Court of Appeal, 2nd Appellate Dist., 7th Div. 1989](#).²⁶⁹ However, after filing a post-default signature and after filing a post-default demurrer (fundamental deprivations/defiance of procedural due process constituting federal crime, [18 U.S. Code §242](#),²⁷⁰ [18 U.S.C. §241](#),²⁷¹ the trial court erased the City’s default

²⁶⁷ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

²⁶⁸ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

²⁶⁹ “Where it is part of the understanding between the parties that the terms of their contract are to be reduced to writing and signed by the parties, the assent to its terms must be evidenced in the manner agreed upon or it does not become a binding or completed contract.”

²⁷⁰ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

²⁷¹ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in

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in violation of [CA CCP §473\(a\)\(1\)](#)²⁷² (*Zamora v. Clayborn Contracting Group, Inc.*, 47 P. 3d 1056 - Cal: Supreme Court 2002)²⁷³ by establishing precedent that (a) proper consent is not a required element of a lawful agreement/stipulation (contract), (b) judicial decisions can be predicated on evidence known to be false, (c) stipulations can falsify law, (d) the “mandatory duty” of the Court clerk to enter a default into the court record, [CA CCP §471.5](#),²⁷⁴ [CA Rules of Court, Rule 3.110\(g\)](#),²⁷⁵ [CA Rules of Court, Rule 5.401\(a\)](#),²⁷⁶ [CA CCP §1085](#),²⁷⁷ can be transformed into a

the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

²⁷² “The court may *in furtherance of justice* enlarge the time for answer or demurrer. The court may likewise, in its discretion, allow upon any terms *as may be just*, an answer to be made after the time limited by this code.”

²⁷³ “conduct falling below the professional standard of care, such as failure [] to properly advance an argument, is not therefore excusable. To hold otherwise would be to eliminate the express statutory requirement of excusability and effectively eviscerate the concept of attorney malpractice.”

²⁷⁴ “The defendant shall answer the amendments, or the complaint as amended, within 30 days after service thereof, and judgment by default may be entered upon failure to answer.”

²⁷⁵ “If a responsive pleading is not served within the time limits specified in this rule and no extension of time has been granted, the plaintiff must file a request for entry of default within 10 days after the time for service has elapsed.”

²⁷⁶ “Upon proper application of the petitioner, the clerk must enter a default if the respondent or defendant fails within the time permitted to make an appearance [a response or answer] as stated in rule 5.62.”

²⁷⁷ “A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.”

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permissive power that a Court clerk may exercise or not as they choose, and (e) litigants are not entitled to a lawful default, precedent (judicial discretion) annihilating due process and obliterating rule of law.

(4 of 4) The City Attorney's negation of due process is evidenced by the City Attorney's defense of the City Attorney's management of Code Enforcement, establishing as client in this litigation *both* the City Attorney's management of Code Enforcement and their interest to criminalize safe property to deprive fundamental rights of liberty, property (dominion | privacy), due process, and equal protection, *and* the City and County of San Francisco and its interest to maintain safe property and prevent human disease, injury, and death, clients with directly adverse interests, [*Flatt, supra*, 9 Cal.4th at p. 284, fn. 3, 36 Cal. Rptr.2d 537, 885 P.2d 950](#),²⁷⁸ [*San Francisco v. Cobra Solutions, Inc.*, 135 P. 3d 20 - Cal: Supreme Court 2006](#).²⁷⁹ This unwaivable conflict-of-interest violates [State Bar Rules of Professional Conduct](#) because (A) competent and diligent representation cannot be provided to each client, CRPC

²⁷⁸ "It is also an attorney's duty to protect his client in every possible way, and it is a violation of that duty for him to assume a position adverse or antagonistic to his client []. By virtue of this rule an attorney is precluded from assuming any relation which would prevent him from devoting his entire energies to his client's interests."

²⁷⁹ "An attorney who seeks to simultaneously represent clients with directly adverse interests in the same litigation will be automatically disqualified."

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1.7(d)(1),²⁸⁰ as held by [*Klemm v. Superior Court*, 75 Cal. App. 3d 893 - Cal: Court of Appeal, 5th Appellate Dist. 1977](#),²⁸¹ (B) the representation of the City Attorney's Code Enforcement interest to deprive fundamental rights of liberty, property (dominion | privacy), due process, and equal protection is prohibited by law [CA BPC §6068\(a\)](#),²⁸² [18 U.S. Code §242](#),²⁸³ [18 U.S.C. §241](#),²⁸⁴ CRPC 1.7(d)(2),²⁸⁵ and (C) this representation involves the City and County of SF's claim that Code Enforcement should maintain safe property to prevent human disease, injury, and death, which fundamentally contradicts the City Attorney's claim that their

²⁸⁰ "Representation is permitted under this rule only if the lawyer reasonably believes* that the lawyer will be able to provide competent and diligent representation to each affected client."

²⁸¹ "As a matter of law a purported consent to dual representation of litigants with adverse interests at a contested hearing would be neither intelligent nor informed. Such representation would be per se inconsistent with the adversary position of an attorney in litigation, and common sense dictates that it would be unthinkable to permit an attorney to assume a position at a trial or hearing where he could not advocate the interests of one client without adversely injuring those of the other."

²⁸² "It is the duty of an attorney: (a) To support the Constitution and laws of the United States and of this state."

²⁸³ "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both."

²⁸⁴ "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both."

²⁸⁵ "Representation is permitted under this rule only if the representation is not prohibited by law."

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Code Enforcement can deprive fundamental rights of liberty, property (dominion | privacy), due process, and equal protection to criminalize safe property, CRPC 1.7(d)(3).²⁸⁶ This unwaivable conflict-of-interest breaches the City Attorney's legal duty by mandating that *opposing counsel (this Plaintiff/Petitioner)*, rather than the City Attorney, represent City and County of SF's interest in public safety and due process, a fundamental denial of due process constituting federal crime, [18 U.S. Code §242](#),²⁸⁷ [18 U.S.C. §241](#).²⁸⁸

A City Attorney violates the Fourth, Fifth and Fourteenth Amendments, and [CA Constitution Section 7 of Article I](#), when they deny due process by (1) representing conflicting interests in the same litigation, by (2) demurring the *only* available and *necessary* due process (to challenge code enforcement searches and violation notices), by (3) manufacturing financial barriers to accessing writ relief, by (4) submitting falsified evidence/law, by

²⁸⁶ "Representation is permitted under this rule only if the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal."

²⁸⁷ "Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both."

²⁸⁸ "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both."

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(5) defying proper procedural due process, and by (6) defending municipal denial of due process from (a) government searches without substantive due process of probable cause, without procedural due process of warrant or consent, and without due process confines in area and duration, from (b) municipal convictions without any evidence of any crime, from (c) a categorical deficiency of due process to challenge government searches and municipal convictions, from (d) unfair proceedings with the City Attorney occupying two practically and seriously inconsistent positions as both judge and respondent, and from (e) the City Attorney's preservation of their financial interest in city searches/seizures, city convictions, city claims, and municipal proceedings negating due process. These violations of an attorney's mandatory duty, [CA Business and Professions Code §6068](#),²⁸⁹ [CA Civil Code §1714\(a\)](#),²⁹⁰ and violations of [CA State Bar Rules of Professional Conduct 8.4](#),²⁹¹ are also 'the commission

²⁸⁹ "It is the duty of an attorney (a) To support the Constitution and laws of the United States and of this state; (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just; (d) To employ those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law; (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest; [and] (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed."

²⁹⁰ "Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person."

²⁹¹ "It is professional misconduct for a lawyer to: (a) violate these rules or the State Bar Act, knowingly* assist, solicit, or induce another to do so, or do so through the acts of another; (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; (c) engage in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is

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of an act involving moral turpitude, dishonesty or corruption constituting a cause for disbarment or suspension,' [CA BPC §6106](#),²⁹² and are federal crimes, [18 U.S. Code §242](#),²⁹³ [18 U.S.C. §241](#),²⁹⁴ [18 U.S. Code §1962](#),²⁹⁵ constituting malpractice, [CA Civil Code §1714\(a\)](#),²⁹⁶ [CA Evidence Code §668](#),²⁹⁷ [CA Evidence Code](#)

prejudicial to the administration of justice; (e) state or imply an ability to influence improperly a government agency or official, or to achieve results by means that violate these rules, the State Bar Act, or other law; or (f) knowingly* assist, solicit, or induce a judge or judicial officer in conduct that is a violation of an applicable code of judicial ethics or code of judicial conduct, or other law.”

²⁹² “The commission of any act involving moral turpitude, dishonesty or corruption, whether the act is committed in the course of his relations as an attorney or otherwise, and whether the act is a felony or misdemeanor or not, constitutes a cause for disbarment or suspension [and] conviction thereof in a criminal proceeding is not a condition precedent to disbarment or suspension from practice therefor.”

²⁹³ “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, shall be fined under this title or imprisoned not more than one year, or both.”

²⁹⁴ “If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same — They shall be fined under this title or imprisoned not more than ten years, or both.”

²⁹⁵ “It shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise.”

²⁹⁶ “Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person.”

²⁹⁷ “An unlawful intent is presumed from the doing of an unlawful act.”

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[§669](#),²⁹⁸ which also establish municipal liability, [42 U.S. Code §1983](#),²⁹⁹ [42 U.S. Code §1981](#),³⁰⁰ [42 U.S. Code §1985](#),³⁰¹ [18 U.S. Code §1964](#),³⁰² [CA Government Code §815.6](#),³⁰³ and [CA Civil Code §52.1](#).³⁰⁴

²⁹⁸ ‘The failure of an attorney to exercise due care is presumed if (1) they violated a statute; (2) the violation proximately caused injury to person or property; (3) the injury resulted from an occurrence of the nature which the statute was designed to prevent; and (4) the person suffering the injury to his person or property was one of the class of persons [innocent] for whose protection the statute was adopted.’

²⁹⁹ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.”

³⁰⁰ “All persons within the jurisdiction of the United States shall have the same right in every State and Territory to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.”

³⁰¹ “If one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.”

³⁰² “Any person injured in his business or property by reason of a violation of section 1962 of this chapter [it shall be unlawful for any person who has received any income derived from a pattern of racketeering activity or through collection of an unlawful debt, to use or invest any part of such income in the operation of any enterprise] may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee.”

³⁰³ “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.”

³⁰⁴ “Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the

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And so far, the City Attorney has been allowed to deny/defy due process during both municipal and trial court proceedings (for which Writ of Review was filed with the CA Supreme Court challenging the trial court's complicity with attorney malpractice, Case No: S295680), despite rule of law that "It is morally incongruous for the state to flout constitutional rights and at the same time demand that its citizens observe the law... any process of law that sanctions the imposition of penalties upon an individual through the use of the fruits of official lawlessness tends to the destruction of the whole system of restraints on the exercise of the public force that are inherent in the 'concept of ordered liberty,'" [*People v. Cahan*, 282 P. 2d 905 - Cal: Supreme Court 1955](#).

VI. Jurisprudence that Property = Dominion + Privacy resolves the Fourth Amendment conflict within the courts, for which Writ of Certiorari to US Supreme Court is pending

Rather than ensure that Code Enforcement searches/seizures are constitutional, the City Attorney claims that Code Enforcement searches do not need to maintain any Constitutional protections because they do not qualify as

Constitution or laws of this state, has been interfered with, or attempted to be interfered with, may institute and prosecute in their own name and on their own behalf a civil action for damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (b)."

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searches/seizures; *see* CA Supreme Court Case No: S295215³⁰⁵

which is now in process for review by the US Supreme Court.

This legal error causes profound harm to the public and is a catastrophic failure of democracy.

The Supreme Court, in direct contrast to the City Attorney's claims, established that 'observations of conditions in public view do constitute search and seizure within the meaning of the Fourth Amendment,' [*Kyllo v. United States*, 533 US 27 – Supreme Court 2001](#),³⁰⁶ which is consistent with [*Katz v. United States*, 389 US 347 - Supreme Court 1967](#), "the 'trespass' doctrine [] can no longer be regarded as controlling," and [*Bonivert v. City of Clarkston*, 883 F. 3d 865 - Court of Appeals, 9th Circuit 2018](#), "it is a 'basic principle of Fourth Amendment law' that warrantless searches of the home or the curtilage surrounding the home 'are presumptively unreasonable,'" because searches, *intentional acts of looking for something the government does not own*, from the public street or Google Earth are fundamentally deprivations of privacy (right of the exclusion of others) from the search irrespective of their 'plain view' and irrespective of their lack of trespass.

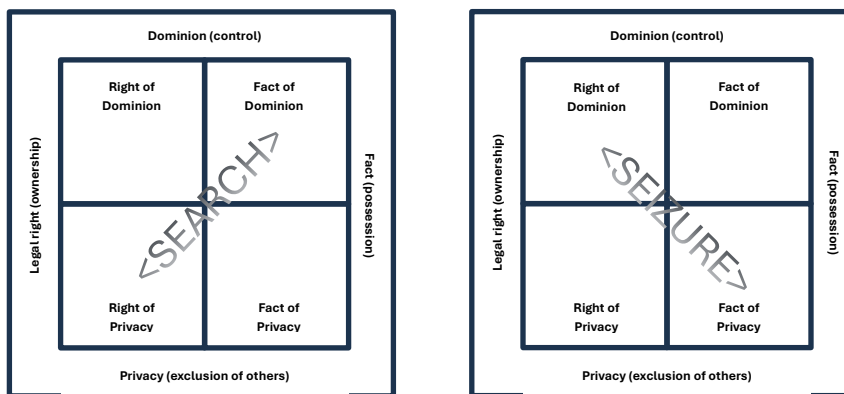
EXCERPT FROM WRIT OF CERTIORARI TO US
SUPREME COURT: Dominion and privacy comprise property:

³⁰⁵ requesting resolution of the conflict within the Courts around Fourth Amendment protections, ratifying jurisprudence that (1) privacy is determined by ownership, *not* trespass, *or* lack of public view, and (2) a search is intentional, *not* accidental.

³⁰⁶ "We hold the Thermovision imaging [from the public street] to have been an unlawful search" because it was without a Warrant."

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land, money, information sourced from person or property, and intellectual currency. [CA Civil Code §654](#) confirms “The ownership of a thing is the right of one or more persons to possess and use it [dominion] to the exclusion of others [privacy]. In this Code, the thing of which there may be ownership is called property. (*Enacted 1872.*)” And the jurisprudence that a (1) Search is the *fact* of intentional exertion of dominion to deprive the *right* of privacy (the exclusion of others), and a (2) Seizure is the *fact* of inclusion of others to deprive the *right* of dominion (to control it), has been well-recognized by our Courts: “A search compromises the individual interest in privacy; a seizure deprives the individual of dominion over his or her person or property,” [Horton v. California, 496 US 128 - Supreme Court 1990](#), and “Violation of the Fourth Amendment requires an intentional acquisition of physical control,” [Brower v. County of Inyo, 489 US 593 - Supreme Court 1989](#).



Thus, the privacy-deprived from a government (Code Enforcement) search is not determined by a lack of visibility (lack of plain-view) of the property being searched as three Federal

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Supreme Courts have erroneously held ([*Marshall*](#),³⁰⁷ [*Ciraolo*](#),³⁰⁸ [*Dow*](#)³⁰⁹), but rather the privacy-deprived from a government search is the deprivation of ‘the right of the exclusion of others,’ a fundamental component of property-ownership, as more than seven Federal Supreme Courts have recognized ([*Boyd*](#),³¹⁰ [*Mapp*](#),³¹¹ [*Griswold*](#),³¹² [*Katz*](#),³¹³ [*United States*](#),³¹⁴ [*Horton*](#),³¹⁵ [*Kyllo*](#)³¹⁶).

CONCLUSION

Thus, intervention is fundamental to and necessary for protecting and reinstating fundamental rights of liberty, property (dominion | privacy), due process, and equal protection from San Francisco’s Code Enforcement and from SF City Attorney’s Management of Code Enforcement which deprive Constitutional liberties, as profoundly described by our CA Supreme Court, [*People v. Cahan*, 282 P. 2d 905 - Cal: Supreme Court 1955:](#)

“It is morally incongruous for the state to flout constitutional rights and at the same time demand

³⁰⁷ *Marshall v. Barlow's, Inc.*, 436 US 307 - Supreme Court 1978

³⁰⁸ *California v. Ciraolo*, 476 US 207 - Supreme Court 1986

³⁰⁹ *Dow Chemical Co. v. United States*, 476 US 227 - Supreme Court 1986

³¹⁰ *Boyd v. United States*, 116 US 616 - Supreme Court 1886

³¹¹ *Mapp v. Ohio*, 367 US 643 - Supreme Court 1961

³¹² *Griswold v. Connecticut*, 381 US 479 - Supreme Court 1965

³¹³ *Katz v. United States*, 389 US 347 - Supreme Court 1967

³¹⁴ *United States v. United States Dist. Court for Eastern Dist. of Mich.*, 407 US 297 - Supreme Court 1972

³¹⁵ *Horton v. California*, 496 US 128 - Supreme Court 1990

³¹⁶ *Kyllo v. United States*, 533 US 27 - Supreme Court 2001

that its citizens observe the law. The end that the state seeks may be a laudable one, but it no more justifies unlawful acts than a laudable end justifies unlawful action by any member of the public. Moreover, any process of law that sanctions the imposition of penalties upon an individual through the use of the fruits of official lawlessness tends to the destruction of the whole system of restraints on the exercise of the public force that are inherent in the "concept of ordered liberty." (See Allen, *The Wolf Case*, 45 Ill.L.Rev. 1, 20.) "Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law, it invites everyman to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means — to declare that the Government may commit crimes in order to secure the conviction of a private criminal — would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face." (Brandeis, J., dissenting in [*Olmstead v. United States*, 277 U.S. 438, 485 \[48 S.Ct. 564, 72 L.Ed. 944, 66 A.L.R. 376\]](#); see also [*State v. Owens*, 302 Mo. 348, 377 \[259 S.W. 100, 32 A.L.R. 383\]](#); [*Atz v. Andrews*, 84 Fla. 43 \[94 So. 329, 332\]](#); [*Youman v. Commonwealth*, 189 Ky. 152 \[224 S.W. 860, 866, 13 A.L.R. 1303\]](#); [*State v. Arregui*, 44 Idaho 43 \[254 P. 788, 792\]](#); [*State v. Gooder*, 57 S.D. 619 \[234 N.W. 610, 613\]](#).)”

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DATED: May 14, 2026 In humble solidarity for justice achieved,

/s/Mihal Emberton
Mihal Emberton,
in Propria Persona, Vox Populi

VERIFICATION

I, Mihal Emberton, declare I am the Petitioner/Plaintiff in the related pending SF Superior Court Case No.: CGC-22-601288, the Petitioner in the four related pending Writs of Mandate with the SF Superior Court, the Petitioner in the related pending Petition for Review in CA Supreme Court challenging the trial court's complicity with attorney malpractice, Case No: S295680, and am the Petitioner in the related pending Writ of Certiorari requesting resolution of the Fourth-Amendment-conflict within the courts (CA Supreme Court Case No: S295215) to the US Supreme Court. I have written this request and know its contents. The matters stated in this request are true. The facts alleged in this request are within my personal knowledge and I know these facts to be true. I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this verification was executed on May 14, 2026.

DATED: May 14, 2026 /s/Mihal Emberton
Mihal Emberton,
in Propria Persona

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

LIST OF REFERENCED EXHIBITS

Exhibit	Subject	Date Filed with Court
A	Original Department of Building Inspection (DBI) violation notice (NOV) dated September 11, 2017	10/7/24
A2	Original Department of Building Inspection (DBI) violation notice (NOV) issued by Carl Weaver, dated September 11, 2017.	9/15/25
B	Page 4 of the California Land Title Association (CTLA) Report containing the conditions under which the title company issued title insurance to our property, which describes only one Easement, reserved for Public Utility, dated September 18, 1922.	10/7/24
C	Historic Sanborn Map from the City and County of San Francisco, Office of the Assessor-Recorder's Website showing water pipes in the public utility easement.	10/7/24
D	Violation notice from Ada Tan (Planning) claiming the presence of a (non-existent) public right-of-way and claiming that the arbor is in violation of the Planning code because it is not attached to the home, dated November 17, 2021.	10/7/24
E	Violation notice from Nicholas Persky (DPW) reinforcing DPW's unlawful public right-of-way claim, dated December 10, 2021	10/7/24
F	Violation notice from Kevin Li (DPW) reinforcing DPW's public right-of-way claim and mandating additional unlawful permits and excavations, dated January 13, 2022	10/7/24
G	Violation notice from Kevin Li (DPW) reinforcing DPW's unlawful public right-of-way claim, dated February 3, 2022	10/7/24
H	Violation notice from Javier Rivera (DPW), associate engineer, reinforcing DPW's unlawful public right-of-way claims, dated April 5, 2022	10/7/24
I	Violation notice from Nicolas Huff (DPW), bureau manager, reinforcing DPW's unlawful public right-of-way claim, dated May 4, 2022.	10/7/24

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Exhibit	Subject	Date Filed with Court
K	June 13, 2022, email from Nicolas Huff, DPW Bureau Manager of Street-Use & Mapping, emphasizing the lack of due process to appeal Code Enforcement searches and violation notices upon our asking DPW to participate in an SF Superior Court Alternative Dispute Resolution (ADR) process.	10/7/24
O	Boundary Exhibit of 201 Ashton Avenue confirms the 6-foot width of the sidewalks and adjacent location of the 9-foot easement, created by Foresight Land Surveying, Inc., dated March 2024.	10/7/24
P	City and County of San Francisco, Ordinance 1098, BILL NO. 1232, Amending Ordinance No. 1061. Entitled "Regulating the width of sidewalks," approved March 9, 1910, for the Lakeview Neighborhood to the East of the Ingleside Racetrack.	10/7/24
Q	July 1908 Subdivision Map of Lakeview to the East of the Ingleside Racetrack.	10/7/24
R	E.J. Morser's 1912 Subdivision Map of Ingleside Terraces detailing 792-house lots of Ingleside Terraces with a sub-surface sewer right-of-way (public utility easement) that was notarized in and for the City and County of San Francisco on April 24, 1912.	10/7/24
S	Legend details of E.J. Morser's 1912 Subdivision Map of Ingleside Terraces detailing the sub-surface sewer right-of-way (public utility easement) for the 792-house lots of Ingleside Terraces that was notarized in and for the City and County of San Francisco on April 24, 1912.	10/7/24
EE	Our first attempt to meet and confer with the City Attorney's office to correct Code Enforcement's civil rights violations, dated December 11, 2021.	10/17/24
FF	Plaintiff/Petitioner's emailed request to the SF Board of Appeals for a hearing on DBI, Planning, and DPW's decisions to conduct unlawful searches and file unlawful violation notices dated January 13, 2022.	2/27/25
GG	Plaintiff/Petitioner's emailed request to Planning Zoning Administrator, Corey Teague for Procedural Due Process (functional oversight) regarding DBI, Planning, and DPW's unlawful searches and violation notices dated January 13, 2022.	2/27/25

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Exhibit	Subject	Date Filed with Court
HH	Response from Alec Longaway, Legal Assistant for the Board of Appeals, to our January 13, 2022 request for a Board of Appeals hearing on DBI, Planning, and DPW's unlawful searches and violation notices, reinforcing San Francisco City Charter §4.106 that the Board of Appeals does not have the jurisdiction to review DBI, Planning, and DPW's unlawful searches or unlawful violation notices, dated January 18, 2022.	2/27/25
II	Response from Corey Teague, Zoning Administrator, to our January 13, 2022, request for Procedural Due Process (functional oversight) regarding DBI, Planning, and DPW's unlawful searches and violation notices, emphasizing the Zoning Administrator's lack of jurisdiction to review DBI, Planning, and DPW's unlawful searches or unlawful violation notices, dated January 14, 2022	2/27/25
LL	DBI's CODE ENFORCEMENT SECTION ABATEMENT APPEALS BOARD STAFF REPORT submitted to the Abatement Appeals Board for the August 2024 hearing including pictures from DBI's July 8, 2024, unconstitutional search with label, "Top Photo: Photo captured on 7/8/2024 @ the corner of Ashton/Holloway Ave."	2/27/25
NN	Planning Ada Tan's violation notice (Notice of Enforcement) dated October 27, 2021.	2/27/25
QQ	City Attorney, David Chiu's, and City Claims Adjuster, Remy Weiland's, DENIAL of our February 7, 2022, City Claim 22-01204 requesting Due Process to review DBI, Planning's, and DPW's unlawful searches and unlawful violation notices, dated March 23, 2022.	2/27/25
RR	City Attorney, David Chiu's, and City Claims Adjuster, Remy Weiland's, DENIAL of our June 18, 2022, City Claim 22-02095 requesting Due Process to review DBI, Planning's, and especially DPW's unlawful searches and unlawful violation notices, dated July 21, 2022.	2/27/25
AF	Transcript of the DBI Director's Hearing on March 7, 2023, Hearing Number: 201703961, due to DPW's hold on fence-repair permit 2017-1011-0923 which resulted in DBI's Order of Abatement, despite the <i>absence</i> of any unsafe property to abate.	7/17/25

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Exhibit	Subject	Date Filed with Court
AI	Transcript of the Planning Department Variance Hearing on July 25, 2018, for variance 2018-002358VAR application to legalize the 4-ft height of the <i>historically</i> 4-ft fence, which was approved July 30, 2019, by Scott Sanchez, Acting Zoning Administrator.	7/17/25
AK	DPW's Brief, submitted February 1, 2024, for February 7, 2024, Board of Appeals hearing for case #23-067 – Emberton vs. SFPW-BSM [DPW].	7/17/25
BQ	Voicemail notice and follow up email exchange between Plaintiff/Petitioner and the City Attorney Kathy Shin with the City's stipulation only signed by one party.	10/17/25

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

EXHIBITS

Exhibit	Subject	Date Filed with Court
M	Image of the dilapidated 4-ft wooden fence before the 2017 fence repair which also shows the absence of a public right-of-way on the property, and a true and correct image of the repaired 4-foot wooden fence which continues to show the enduring absence of a public right-of-way on the property.	10/7/24
Z	The 26 public comments received up to October 6, 2024, regarding the public benefit of the arbor including its compliance with Planning's Residential Design Guidelines, its compliance with 20 policies of the Recreation and Open Space Element of Planning's SF General Plan, an absence of unsafe property, and evidence that the arbor does not obstruct any public right-of-way.	10/7/24
AA	The 10 public comments regarding the public benefit of the 2017 repair of the dilapidated 4-ft fence submitted to the Planning Department for July 25, 2018, Variance Hearing to allow the 4-ft height of the historically 4-ft fence.	10/7/24
BB	The 57 public signatures attesting, "I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement," for the July 25, 2018 Variance Hearing to allow the 4-ft height of the <i>historically</i> 4-ft fence.	10/7/24
VV	Excerpt from the emailed correspondence between Plaintiff/Petitioner and Deputy City Attorney Brian Fraser Crossman regarding Thursday March 6, 2025, Meet-and-Confer requested by Brian F. Crossman to provide counsel that a writ of mandate requires Plaintiff/Petitioner to pay \$50,000-\$100,000 to the City and County of San Francisco.	3/12/25
XX	Deputy City Attorney Brian Fraser Crossman's follow-up-letter regarding Thursday March 6, 2025, Meet-and-Confer requested by Brian F. Crossman,	3/12/25

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

	confirming his counsel that a writ of mandate requires Plaintiff/Petitioner to pay at least \$10,000-\$50,000 to the City and County of San Francisco.	
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Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

[Exhibit M](#)

Exhibit M

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.



ABOVE: Dilapidated 4-ft wooden fence before the 2017 repair/replacement and the absence of a *public* right-of-way on the property.

BELOW: Repaired 4-ft wooden fence, [CA Civil Code §1714\(a\)](#), [SF Admin. Code Chapter 80](#), [SF Housing Code Chapter 10 §1001](#), [SF Building Code §102A](#), which prevents “nuisance,” “vegetable matter,” “grass,” “weeds,” and “vegetation overgrowth” from impinging the sidewalk, [SF Public Works Code Article 5.1 §174](#), protects the Ingleside Terraces Landmark Pillars, [SF Planning Code Article 10 §1008](#), with the addition of safety lighting for the sidewalk, [SF Public Works Code Article 15 §706](#), and the enduring absence of a *public* right-of-way on the property.



Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

[Exhibit Z](#)

Exhibit Z

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

9/8/24, 2:54 PM

Gmail - support for arbor at 201 Ashton Ave



mihal emberton <mihal.emberton@gmail.com>

support for arbor at 201 Ashton Ave

m.w.peterson@gmail.com <m.w.peterson@gmail.com>

Sat, Sep 7, 2024 at 4:37 PM

To: boardofappeals@sfgov.org

Cc: mihal emberton <mihal.emberton@gmail.com>, Raelyn Ruppel <raelyn98@hotmail.com>, Amy Peterson <zinnias@gmail.com>

Dear Members of the Board of Appeals,

We are writing to express our deep appreciation for the arbor located at 201 Ashton Avenue, a space that has become an invaluable asset to our community and the broader public. As neighbors and residents of San Francisco, our family has witnessed firsthand the positive impact this beautiful structure has had on our local environment and the lives of those who frequent the area.

Mihal Emberton's and Raylyn Ruppel's arbor, adorned with lush plants and vines, serves not just as a visual centerpiece but also as a vital green space in our urban landscape. It contributes to the beautification of our neighborhood, offering a refreshing contrast to the concrete and buildings that dominate our city. This little creative oasis provides a serene environment where residents and visitors alike can escape the hustle and bustle of city life, even if just for a moment.

Beyond its aesthetic appeal, the arbor has become a cherished gathering spot for our community. Children play beneath its shade, using it as a safe and welcoming space to explore their imaginations. Families often meet here for casual gatherings, and it has even become a venue for small celebrations such as birthday parties and sports team get-togethers. The sense of community fostered by this space is palpable, as it brings people together, fostering relationships that might not otherwise develop in a busy urban setting.

The arbor's role as a meeting place extends beyond casual socialization. It has become a spot where neighbors can come together to discuss local issues, share ideas, and support one another. In this way, it has inadvertently contributed to the strengthening of our community bonds, making our neighborhood a more connected and cohesive place to live.

We believe it is important to highlight how the arbor aligns with the City of San Francisco's values and goals, particularly those related to environmental sustainability and community engagement. The greenery it supports not only enhances the local ecosystem by providing habitat for birds and insects but also contributes to improving air quality and reducing the urban heat island effect. Furthermore, the space encourages residents to engage with one another, fostering a sense of belonging and shared responsibility for our environment.

In closing, we urge the Board of Appeals to consider the significant public benefits this arbor provides. It is much more than a simple garden structure; it is a vital part of our community's identity and a beacon of the type of urban space that San Francisco should continue to cultivate. Preserving this arbor would not only maintain its current benefits but also set a precedent for valuing and protecting similar spaces throughout our city.

Thank you for your attention to this matter. We hope the Board will recognize the importance of this arbor to our neighborhood and the broader community.

Sincerely,

<https://mail.google.com/mail/u/0/?ik=f2cf3dad8b&view=pt&search=all&permmsgid=msg-f:1809582422369491046&simpl=msg-f:1809582422369491046>

1/2

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

9/8/24, 2:54 PM

Gmail - support for arbor at 201 Ashton Ave

Matt and Amy Peterson
191 Corona St
San Francisco, CA 94127
m.w.peterson@gmail.com

<https://mail.google.com/mail/u/0/?ik=f2cf3dad8b&view=pt&search=all&permmsgid=msg-f:1809582422369491046&simpl=msg-f:1809582422369491046>

2/2

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

To the zoning administrator,

I wanted to write you as a member of our community on behalf of Raelyn Ruppel and Mihal Emberton about their beautiful yard.

I have lived in our neighborhood since 2003, and so much has changed for better and for worse in those years. I remember the way that their yard used to look before they were here and I remember the drug dealer that hung out outside of the liquor store across the street. The beauty of the space they have created there was something that my family and I have admired since before we knew who lived there. The difference is stunning. And that street went from one we avoided on the walk to visit friends of my oldest child a few blocks up, to the starting off point for their trick or treating.

There are still shady things going on all around Ocean Ave and the surrounding streets but that intersection is not a place super frequented by that world because no one really wants to try to sling drugs or break into cars in day light hours in an area where playdates are happening and PCO parents are hanging out and watching.

They have created a home base for so many beginnings of the type of community that all of us should want for our home. My little family in particular only has each other, we don't have family near us to help us if something goes wrong or seek for support or a soft place to land. We haven't really ever had someone close enough that could take our kids or feed our animals or something if we couldn't. We have many friends that live far away but it's such a challenge to make deep community connections with other families with a one bedroom apartment and no yard, and the parks being a pretty big hike away. This couple is creating this beautiful atmosphere and family feeling with their home base for things that lead to the connections where you know people enough to reach out for and to help. There is nothing more valuable to a family with children than support and love and trust beyond the nuclear family unit.

They hosted a school PCO meet and greet that was able to be outside and still covid safer in their beautiful space and it was so wonderful to sit in their arbor and discuss how we all plan to support everything extra that we try to provide to our children beyond what little the school district provides. I know they host a book club and they have the kids of some families that need care for different afternoons which is a huge thing that just isn't available without payment in communities anymore. These types of things are so huge especially to families like mine who don't have family or friends that feel like family in their in-person lives. They connect people and bring the truly special things that make a home place truly a home and not just a place where people live near each other.

I don't understand going after and trying to destroy something and people that bring nothing but good to everyone. There is no downside to it being there. I don't understand making a priority of something like this when there are so many huge problems in our area, like the scary tiny island muni stops in the middle of the very very busy Ocean ave down the street, that I saw another middle school child hit next to today. Or the falling apart movie theater church building on

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Ocean. Or the many dangerous sidewalks that a stroller or wheelchair cant get through because of lifted and broken concrete or bushes that push you into the road, or places badly lit at night. Maybe helping the laundromats that are experiencing daily robbery and vandalism. Just taking a walk around other areas, you can see so many things that need help and looking into. I would love the opportunity to really show the problems to those that make the decisions and dont see the real problems. This beautiful yard isnt a problem, its something that solves so many of them and hasn't costed our neighborhood anything.

I wish there where more people trying to do real things like this beautiful family to help make our special area better and foster a healthy and caring community for all those that live here. It leads to people feeling a part of it and wanting to make it better, and this neighborhood can use more of that not less.

Thank you for your time,
cristine Kelsey
415-734-7617
flamingobean@gmail.com

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

San Francisco Planning Department
49 S Van Ness Avenue
Suite 1400
San Francisco, California 94103

September 29, 2022

Dear San Francisco Planning Department,

I am a San Francisco resident writing to express my support for the arbor at 201 Ashton Avenue.

I have lived in the 94112 zipcode for over ten years, driving and walking past 201 Ashton Avenue hundreds of times. I have also had the pleasure of meeting Raelyn and Mihal, the owners and residents of the home at 201 Ashton, through our children's school, Commodore Sloat Elementary, where both dedicate many hours to the improvement and beautification of our school site.

Over the years, Mihal and Raelyn have transformed a spot that was previously a run-down space at a busy intersection and turned it into a source of beauty, pride and community for the neighborhood and our public school community. Several days a week, Raelyn watches my son (and others) afterschool. Without fail when I arrive to pick him up, I find neighbors paused at the corner talking with her or Mihal and enjoying the garden they have built. On one occasion, I was standing in the front yard when an older gentleman approached and said that as a boy he had a paper route in the neighborhood and he was passing by and had to stop and admire what the home and yard look like now. He talked with us for over twenty minutes sharing stories about the neighborhood in years past.

Raelyn and Mihal value building these types of connections. With their front yard and arbor, they have created a safe and welcoming space to forge community. This has been critically important these last few years as we have all struggled to keep connected with one another during the pandemic and to find places where we can come together- often through safe outdoor spaces. Their front yard and arbor have hosted parties for our school sports teams, a community book club and other gatherings- both impromptu and planned.

Of late, in an increasingly divided society, the importance of weavers is recognized. Weavers are people who value connections in their community and who weave a social fabric that allows us to see, know and trust one another. Raelyn and Mihal are weavers for our small corner of San Francisco. I wish that our city had more people like them and the spaces they create.

Please consider allowing their arbor to stand.

Sincerely,



Temple Cooley

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

To: Corey Teague, San Francisco Zoning Administrator

Dear Mr. Teague,

My name is Chip Blazey, and I'm writing this letter on behalf of my family to support the efforts by Mihal Emberton and Raelyn Ruppel to maintain their arbor at 201 Ashton Avenue.

My wife, Nha-Ai Nguyen-Duc, and I are longtime residents of San Francisco. Except when she was earning her medical degree and completing her residency, Nha-Ai has lived her whole life in the city since coming here with her family as a toddler in 1976. I moved to San Francisco 20 years ago when I started work after completing my Ph.D. at UC Berkeley. We can honestly say there is nowhere else we would rather live, and that's due in no small part to the dedication of people like Mihal and Raelyn who go to great lengths to foster community and to try to help San Francisco grow and improve.

We've known Mihal and Raelyn since our children started attending Commodore Sloat Elementary School together in 2017. They've been heavily engaged in the school's community since the first day our kids started kindergarten. Mihal is just starting her second year serving as co-president of the Parent Club Organization, and Raelyn has been a regular fixture at just about every school-improvement event for the past five years. Mihal and Raelyn are thoughtful and committed when it comes to social and community activism, and you can be confident that the decisions they make regarding the layout and appearance of their property are sincere reflections of their interests in their community.

We can vouch personally for the communal value of the arbor they installed in their front yard. We've attended many an outdoor celebration at 201 Ashton, and in each case, the arbor has served as a comfortable gathering point for friendly conversation and thoughtful discussion. But the value of the arbor extends beyond planned events. It's also a natural facilitator of spontaneous community interaction.

When the country locked down for COVID in 2020, I abandoned my indoor gym workouts in favor of long runs through the city for exercise. In plotting out my running routes, I deliberately developed one that took me past Mihal and Raelyn's home with the expectation that I would occasionally catch them out in their yard as I passed by. Sure enough, that's exactly what has happened over the past 2 ½ years. When the timing and weather accommodate, they'll be out under the arbor enjoying the day when I run by, and I'll stop to catch up for a bit before heading off to complete my run. Invariably while we chat, friends and neighbors will wander by and say hello, clearly demonstrating that Mihal and Raelyn have cultivated a friendly familiarity with their community.

The outdoor space that Mihal and Raelyn have created at 201 Ashton facilitates the types of neighborhood interaction that the City of San

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Francisco should value, and the arbor is the central communal feature of the yard. We think the value of the arbor to the neighborhood is obvious. Not only should it be allowed to stay, but the City should encourage similar structures throughout San Francisco when space allows.

Thank you for your time and consideration.

Sincerely,

Chip Blazey and Nha-Ai Nguyen-Duc

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Dear Zoning Administrator,

I'm writing in support of the beautiful garden and arbor at 201 Ashton.

In a neighborhood that is high on cement and low on greenery, the corner garden at 201 Ashton is an oasis. The arbor, adorned with vines and soft lights, sits over a fire table, surrounded by an urban garden. It's a gathering spot, a place to host neighborhood events, children, book clubs, community meetings, and more.

Studies conducted (in many places, including San Francisco) link increased heat with a higher amount of concrete. In light of our increasingly hot summers, and the broader issue of climate change, it's hard to understand why anyone would ask the owners to remove any part of their garden.

Heat and environmental issues aside, the corner garden is simply lovely. The Ingleside neighborhood is a diverse community, encompassing both beautiful and run down homes. The home at 201 Ashton is what we all want in our neighborhoods – a property that is beautifully maintained, with neighbors who are outside, chatting with passersby, growing fruit and vegetables that can be shared over the gate, participating in their community – in essence, the definition of a good neighbor.

Please do not insist that the owners take down any of their garden – we need their beautiful, welcoming space, an anchor and gathering spot for a strong, diverse community.

Regards,
Jessica Franklin
District 7 resident

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

201 Ashton Avenue

My name is Chris Moreno and I am a lifelong resident of Ashton Avenue. My father Paul, who passed away in 2000, was also a lifelong resident of Ashton Avenue. His parents - my Grandparents - immigrated from Spain and began our family on Ashton avenue. In total, my father's side of our family has invested close to 90 years of dedication, support and love to San Francisco, the Ingleside/Lakeview neighborhood, and most importantly – Ashton Avenue. To say we know a little about the area would be an understatement. We've seen the ups and downs, the good and the bad.....and through it all, my wife and I – like so many others – have decided to raise our son in this magnificent area we call home.

Prior to 2012, 201 Ashton Avenue was bleak and lifeless. The immediate area was struggling. Persistent vehicle traffic, trash, unkept front yards and a broken sense of community all contributed to the slow decline of a once proud and vibrant area. But along came the Embertons.....

Over the years, Mihal and Raelyn have transformed their front yard into an oasis of beauty and a landmark for community pride and togetherness. During neighborhood walks with my family, I often see passerby's gathering in front of their house, inspired by their creation and motivated to follow suit.

The Emberton's have brought life back to our neighborhood by opening their front yard for all to see and appreciate. I thank them for taking steps to improve their home with neighbors, friends, and community in mind. They are a true gift to our area, and I am honored and proud to speak on their behalf.

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

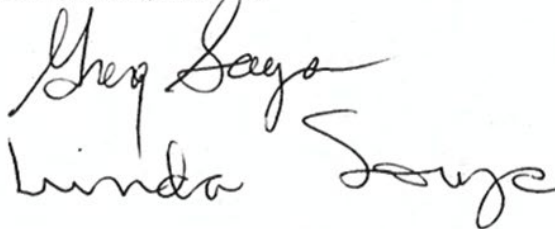
To: Zoning Administrator
San Francisco, CA.

We have been residents at 218 Ashton Avenue for close to 35 years and have seen the neighborhood experience multiple changes over that time. No change has been as positive as the work Mihal Emberton and Raelyn Ruppel have done to beautify their front yard. Not only has their work created a very pleasant garden, which we can enjoy from the windows of our home, but more importantly created a gathering space for leisurely contact with many of our neighbors who also enjoy this lovely meeting space.

Beyond the natural surrounding this space creates for casual meetings their Arbor also supports the neighborhood by creating a space for a monthly book club, after school play space and neighborhood parties and gatherings. The entire front yard bordering Ashton and Holloway also adds to the neighborhood through the natural beauty of the many plants and trees. A benefit to our climate environment as well. The lighting they have installed acts as a safety enhancement by lighting up a busy and somewhat irregular intersection at Holloway and Ashton. The work they have done to create this Arbor and surrounding garden is truly a major benefit to our neighborhood and adds to our living space both environmentally and socially.

As stated previously we have been residents on Ashton Avenue for close to 35 years and have witnessed and at times tolerated some very distasteful behaviors from previous neighbors. Raelyn and Mihal have created a transformation on their property that has benefitted the entire neighborhood and is enjoyed by many, way beyond the residents of their home. We strongly support the work they have done and are willing to support their continued efforts to maintain and develop their "neighborhood living space" on the corner of Holloway and Ashton.

Greg and Linda Souza
218 Ashton Avenue
San Francisco, CA 94112

Handwritten signatures of Greg Souza and Linda Souza. The signature for Greg Souza is written above the signature for Linda Souza. Both signatures are in cursive script.

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

San Francisco Planning Department
49 South Van Ness Avenue
San Francisco, CA 94103

Dear Corey Teague, Zoning Administrator:

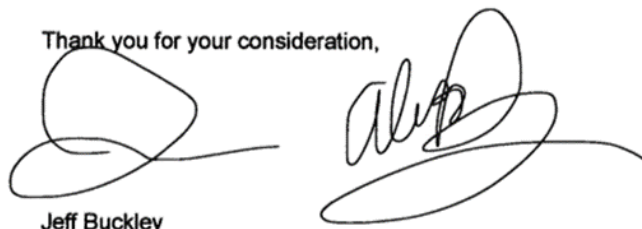
We are writing to express our support for a planning variance for Raelyn Ruppel and Mihal Emberton's landscape improvements to their property as well as their pergola structure at **201 Ashton Avenue**.

This variance is necessary for the preservation and enjoyment of their yard for not only the property owners, but also the community. Rather than being detrimental to the public welfare or injurious to improvements in the vicinity, it *adds* to the public welfare and neighborhood improvements.

As neighbors, we enjoy the beauty and calming effect their garden has brought to the intersection. We have lived in the neighborhood for twelve years and they have turned what was an eyesore into a property that the entire neighborhood takes pride in. What an improvement!

As community members, we have benefitted from Raelyn and Mihal opening their yard to host school events, such as Commodore Sloat Parents' Club Organization meetings, and social events, such as a monthly meeting of the best book club in the world. They are great hosts and truly community- and volunteer-oriented, which means this variance would benefit the public, not just the private owners.

Thank you for your consideration,



Jeff Buckley
Alissa Buckley
471 Faxon Avenue

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

October 22, 2022

Zoning Administrator
San Francisco, CA

Dear Zoning Administrator,

I am writing to communicate our value and support of the beautified, community-enhancing spaces created and maintained by the Emberton-Ruppel family. As such, we are requesting the support of the Zoning Administration and the city of San Francisco for this wonderful family of San Franciscans.

First, the enhancements to their property has dramatically improved the neighborhood. When we moved into our home nearby on Head Street, around 10 years ago, the intersection of Ashton and Holloway was a somewhat "sketchy" corner. It was the site of shootings, drug deals, and unsafe loiterers. Additionally, the properties in the area were more often in a state of disrepair with weed-filled overgrown yards and rusty chain fences. The Emberton-Ruppel family slowly but surely worked to improve this small area of our neighborhood. Their corner lot is nothing short of beautiful: color-coordinated flowers and plants, small decorative wooden arbors, a raised bed garden with veggies we share, wisteria draped over a gorgeous front arbor with seating. We love visiting their little urban oasis and so do many of our neighbors and our kids' classmates' families. We've spent many an evening under the arbor talking and laughing together, always leaving grateful for the community and friends we have. With their consistent attention to their property and the area around them, Raelyn and Mihal have gotten to know almost all of the neighbors, including some of the transient and unhoused neighbors who pass by frequently. There is a clear and direct correlation to the improved safety, sense of community and neighborly support around the area.

Another important thing to note is how much this family supports the community beyond their corner lot. Mihal is the President of our school's Parent Club Organization (Commodore Sloat Elementary). Raelyn has consistently been the most active member of the Commodore Sloat Parent Community- caring for the school grounds when there is really no one else to do so. One small but impactful example of Raelyn's impact is that she leads the quarterly Green-up Clean-Up that draws the entire school community together to participate in upkeep and improvements to the school and its surrounding

THE DEIGNAN FAMILY 860 HEAD STREET SAN FRANCISCO, CA 94132

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

campus. This benefits the City beyond the attendees of the school, as the Sloat campus is enjoyed by the public on weekends or non-school days.

Lastly, I know personally how much angst and stress the actions are causing this family. From years of frustration, to financial burden from the numerous fees, to stress-related health issues, the actions the City of San Francisco against these genuinely well-intended citizens' efforts have been costly and, quite frankly, unacceptable. As San Francisco residents, we expect our city's resources, elected officials and personnel to be dedicated to supporting and safe-guarding San Francisco residents. This situation has proven to be quite the opposite. The actions and resources put toward penalizing this wonderful family appear to be nothing short of harassment.

The Emberton- Ruppel family is dedicated to cultivating beauty and community in San Francisco. They are a kind and respectful family who actively show their love and support of San Francisco, our SFUSD school, and their community of friends. We are grateful to be their neighbors, classmates and friends. We ask that the city of San Francisco to support this family and their efforts to make a positive impact to our amazing City and to our community and approve the variance for the arbor.

Sincerely yours,

Gina and Jeff Deignan

Gina and Jeff Deignan

860 Head Street

San Francisco, CA 94132

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Regan Dayton

662 Cayuga Ave
San Francisco, CA 94112
(415) 987-5044

October 17, 2022

Zoning Administrator

San Francisco Planning Dept
49 S Van Ness Ave, Ste 1400
San Francisco, CA 94103

Dear Sir or Madam,

This letter is regarding the requested zoning Variance for 201 Ashton Ave. I am writing in support of the variance as I believe the arbor in question brings a beautiful and much needed community feel to an otherwise desolate intersection.

The intersection of Ashton and Holloway is a wide, paved intersection largely bereft of mature greenery. The arbor at 201 Ashton bears a thriving wisteria and is framed by trees and other greenery which beckon to drivers and pedestrians alike as they approach from Holloway. As a city San Francisco falls behind other major cities like Los Angeles, New York City, Portland, and Seattle in tree cover so we should be encouraging residents to add greenery to the most public facing portions of their properties. The beauty and greenery the arbor and yard provide to this intersection are valuable and should be cherished.

The arbor at 201 Ashton also provides a public space for neighbors to interact. Simply sitting under the arbor invites interest and communication from the numerous passersby, adding a much needed social scene to the bleak surroundings of that intersection. In addition, the property owners have hosted numerous functions in support of our public schools, and provided a vital space for students to be together outdoors during the pandemic. It would be a tremendous shame and regretful loss to the community should the variance not be granted. I urge you to grant the variance and save this beautiful space.

Sincerely,

Regan Dayton

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: Colleen Carrigan colleencarrigan@gmail.com
Subject: Letter of Support
Date: Oct 1, 2022 at 10:52:01 AM
To: Raelyn Ruppel raelyn98@hotmail.com, Mihal Emberton
mihal.emberton@gmail.com

Dear Zoning Administrator,

I am writing in support of the homeowners at 201 Ashton Avenue.

Raelyn and Mihal are the embodiment of responsible and engaged San Franciscans. Their home sits on the lopsided intersection of Holloway and Ashton Avenues, a consequence of an older approach to street and neighborhood design. This outdated decision causes safety issues for pedestrians and people living adjacent to it.

Additionally, it is proven that lighting up outdoor spaces helps to deter crime and increase pedestrian safety. So too does community gathering spaces and neighbors getting to know each other. Every neighbor benefits when citizens are active in their community. Raelyn and Mihal's home invites neighbors to get to know each other. Their home welcomes the young and the old.

Stepping into their garden protected from street traffic sparks curiosity in children to learn about science and nature. Sitting under their arbor filled with the fragrance of wisteria invites relaxation and serenity from the cars rounding that crooked intersection. Access to these lovely outdoor spaces was necessary during the pandemic and remains so afterwards.

I hope this letter helps you to visualize the community benefits that are readily available to that corner of the City.

What Raelyn and Mihal have created is inspirational.

Sincerely,

Colleen Carrigan
Owner, 450 Monticello Street

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: **Raelyn Ruppel** raelyn98@hotmail.com
Subject: **Fwd: Letter of support**
Date: **Oct 11, 2022 at 9:37:07 PM**
To: **Mihal Emberton** mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: erin peters <erinkpeters@me.com>
Date: October 11, 2022 at 9:01:32 PM PDT
To: Raelyn Ruppel <raelyn98@hotmail.com>
Subject: Letter of support

October 11, 2022

To Whom it May Concern,

I am writing in support of Raelyn and Mihal. It is my understanding that the city is holding a hearing about the outdoor garden and arbor on their property.

This amazing garden and outdoor space is beautiful. It is meticulously kept and enhances the neighborhood. I truly wish there were more spaces like this in the city.

Not only does this space improve the feel of the neighborhood, it is also shared with the community. Raelyn and Mihal choose to share their garden and arbor with others. They have hosted children and families during the pandemic and continue to hold monthly book club meetings (of which I am part).

Please consider finding in Raelyn and Mihal's favor allowing them to keep the arbor and this welcoming space.

Sincerely,

Erin Peters
14 Nordhoff Street

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

San Francisco, CA

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: Danica Fujimori dgfujimori@gmail.com
Subject: 201 Ashton ave arbor
Date: Oct 18, 2022 at 2:15:38 PM
To: mihal emberton mihal.emberton@gmail.com, Raelyn Ruppel
raelyn98@hotmail.com

Dear Raelyn and Mihal,

Please feel free to include this email in support of your arbor in your correspondence with the zoning administration.

To the Zoning Administrator:

We are writing with regard to the arbor at the house of Raelyn Ruppel and Mihal Emberton at 201 Ashton Ave. As neighbors and community members, we are grateful that this space exists in our neighborhood. Raelyn and Mihal have generously shared their front yard space with our school community by hosting end of the season celebration events. The arbor has a perfect venue for these events, especially during the ongoing pandemic given the reluctance of many families, our included, to socialize indoors. This inviting space has been a perfect solution - with enough shade for sunny weather and added warmth for cold westside evenings.

In addition, the arbor enhances the safety of the neighborhood. Our older child, a thirteen year old, often walks to Minnie and Lovie for soccer practices. On his way, he passes by 201 Ashton. Light at the arbor makes him feel safer. To us, this enables us to give him more independence, while being less concerned about his safety.

Best regards,
Danica Galonic Fujimori and Shinji Fujimori
101 Pinehurst Way
San Francisco CA 94127

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

October 9, 2022

Dear Zoning Administrator,

I am a long-time friend of Mihal Emberton and Raelyn Ruppel, and am writing this letter in support of their efforts to keep their arbor. Their arbor provides invaluable community benefits by supporting civic engagement through monthly book club meetings, after school play space, and neighborhood parties and gatherings. Their arbor also enables them to easily engage with local businesses, and has played an especially important role in their community during the Covid-19 pandemic as a safe, outdoor space for friends, family and neighbors to gather, and gain reprieve from the isolation imposed upon us during the pandemic. I myself have spent many afternoons and evenings with Mihal and Raelyn, relaxing under their arbor and taking a break from my hectic life, so I can attest to the important role that their arbor plays in their community.

Furthermore, their arbor adds to the urban canopy of their community by supporting thriving wisteria, and many other plants and trees. Lastly, their arbor improves neighborhood safety by lighting up a busy and irregular intersection. I sincerely hope that they will be permitted to keep their arbor, so that it may continue to support their community for many years to come. Thank you for your time.

Best Regards,


Neetu Kellison

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: **Stacey Palevsky Lewis** staceydebra@gmail.com
Subject: **Letter of support**
Date: **Sep 29, 2022 at 9:06:00 PM**
To: **mihal emberton** mihal.emberton@gmail.com,
raelyn98@hotmail.com

Dear Zoning Administrator,

I'm writing to express my support for the beautiful garden created by Mihal Emberton and Raelyn Ruppel in their front yard at 201 Ashton Avenue. I am lucky enough to enjoy their oasis yard once a month as part of a book club Raelyn hosts for mothers from Sloat Elementary School. I consider their garden/yard to be a quasi-community center that is a huge asset to the neighborhood. It enriches the lives of everyone lucky enough to be invited in!

Thank you,
Stacey Lewis
SF Resident, 66 Saint Elmo Way
Sloat Elementary Parent

- - -

Stacey Palevsky Lewis | staceydebra@gmail.com | [415.652.4196](tel:415.652.4196)

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

September 28, 2022

Zoning Administrator
San Francisco Planning Department
49 South Van Ness Ave, Suite 1400
San Francisco, CA 94103

Dear Zoning Administrator,

It has come to my attention that there will be a variance hearing next month regarding the arbor at 201 Ashton Avenue. I am asking you to consider granting this property, and its owners Mihal Emberton and Raelyn Ruppel, a variance for the existing arbor.

I became part of their invaluable community and space two years ago in the midst of the pandemic. My older daughter had just started Kindergarten at Commodore Sloat School and all of the instruction that year was online. As a result, I was a new parent to a new community that I could not be a part of. I immediately felt isolated due to the fact that no in person classes or events were happening and therefore had no way of meeting new people and connecting to the community and neighbors. This was until I was invited by a member to join a book club for the parents. Raelyn and Mihal, owners of 201 Ashton Ave., were gracious enough to open their outdoor arbor as a place for us to meet safely and at a distance. Through their generosity and welcoming, I was able to find community and connect with people during trying and isolating times. I know I am by no means the only person who has found respite and a sense of community and belonging below their arbor. To this day, we still continue to gather and connect in this space regularly. This is why I am asking that you consider granting this variance to them, so that we can continue to meet, connect and form community in the neighborhood.

Sincerely,



Sarah Bookwalter

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: **Raelyn Ruppel** raelyn98@hotmail.com
Subject: **Fwd: Letter of Support for 201 Ashton Avenue**
Date: **Sep 28, 2022 at 6:30:43 PM**
To: **Mihal Emberton** mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: Serena Warner <serenawarner@gmail.com>
Date: September 28, 2022 at 12:03:57 PM PDT
To: raelyn98@hotmail.com
Subject: Letter of Support for 201 Ashton Avenue

To The Zoning Administrator,

I write in regards to the upcoming variance hearing on October 26th in relation to the arbor at 201 Ashton Avenue.

Raelyn Ruppel and Mihal Emberton are huge proponents of community involvement, beautification and engagement. They have created a beacon at their home for the Ingleside community, and the arbor adds a huge benefit. During 2020-2021, the Emberton-Ruppel home functioned as a safe and welcoming outdoor space where children who were isolating at home could go to have a bit of socialization during the most strict months of shelter-in-place. The arbor provided shade and cover for these kids to interact and study, without the dangers of the beating sun. The arbor has also been a place of refuge for community book clubs, soccer and baseball team meetings and end-of-season parties, and still functions as a daily haven for a continuing pod of children who still don't feel safe in a larger after-care setting, as COVID remains present and continues to affect all of our lives. The space has benefited the community at-large. It has removed what was once a blight to the street, and deters crime, as people are outside, building community, and have an eye on the goings on in the neighborhood. I can't begin to express what a benefit this arbor has had for our family in particular, as my child has been part of the continuing Pod that is able to safely play and enjoy the arbor each day after school. It is a lovely and pleasing-

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

to-the-eye addition to the block and the Ingleside community as a whole, and would be a sad and needless loss to the neighborhood if it were to be removed.

Please consider allowing the arbor at 201 Ashton Avenue to remain in place! It is causing no harm, and benefiting the entire Ingleside community!

Thank you so much for your time,

Serena Warner, community member
415-225-8752

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Dear Zoning Administration;

As a resident of Ingleside Terraces, I can remember driving past 201 Ashton years ago before I even knew Raelyn and Mihal. I remember their front yard had a pergola and these beautiful wreaths in their windows at Christmas, and really nothing else. But over the years, their front yard has become an oasis that I am so thankful I get to enjoy. They have put so much time and money into creating an amazing space for outdoor living.

About 4 years ago, a group of us moms from Commodore Sloat School decided to create a book club. We first started meeting at Whole Foods on Ocean in their coffee shop. But it was loud and very public. Luckily, Raelyn joined our club and opened up her garden to us. By this time, her yard was much more than a pergola and wreaths at Christmas. There was a fire pit and comfy Adirondack chairs, lush trees, beautiful hydrangeas, hanging lights, a fountain, and creeping vines. Covid shut down our group for a while, but having a safe place to meet-up in person was a godsend for us moms who had been home with our kiddos 24/7 for months and months. Each month we are so blessed to meet up and enjoy each other's company and discuss books and life. It's a beautiful space that is an asset to our neighborhood.

I am saddened to hear of all the trouble the city has given this amazing family for beautifying their home and our entire community. If more people took such care of their yards, our neighborhood would be much improved.

Sincerely,
Suzanne Howe
820 Urbano Dr.

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Richard Hendry

September 21, 2022

Corey Teague

Zoning Administrator

City and County of San Francisco

corey.teague@sfgov.org

Re: Zoning variance for 201 Ashton Avenue, San Francisco CA 94112

Dear Mr. Teague:

I understand that you are requiring a zoning variance for an arbor in our neighbors Mihal and Raelyn's front yard at the above address.

I am writing to ask that you allow the variance as this arbor, which supports a very beautiful white wisteria, adds a great deal to the neighborhood.

There are so many blights upon our neighborhood; from the typical houses that are directly on the sidewalk, paved-over their front yards for parking, yards surrounded by ugly cyclone fence and covered with egregious plastic 'grass,' or, worse, are abandoned. In contrast Mihal and Raelyn have created an inviting front yard that has abundant flowers, flowering trees, and vegetable beds. This transforms the lot into an outward-facing park-like corner and adds to the overall livability of the neighborhood.

In addition, because of the inviting, outward-facing yard, Mihal and Raelyn's house is a focal point for walkers to drop by and talk and generally serves as a positive influence in the neighborhood.

Please approve the variance without any further imposition on Mihal and Raelyn or on our neighborhood.

Sincerely,

Richard Hendry

423 FAXON AVENUE, APT. A, SAN FRANCISCO, CA 94112 415-823-9988

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Karen Blosski-Simon

(415) 994-4615

karenablosski@gmail.com

11th September 2022

Zoning Administrator

San Francisco Planning Department

49 South Van Ness Ave, Suite 1400

San Francisco, CA 94103

Dear Zoning Administrator,

I am writing in support of Mihal Emberton & Raelyn Ruppel, owners of 201 Ashton Ave, San Francisco, CA at their upcoming Variance Hearing.

Raelyn and Mihal have generously opened their garden and front yard space, including the welcoming space under their arbor, for many community events of which I have been a part of. The space serves as an anchor within the community - during most events neighbors come by, as well, on their regular walks and receive a warm welcome and maybe even a gift of some vegetables from the garden. The space contributes to a sense of community and well-being that San Francisco has strived to create.

As a long time resident of SF since 2004 and a former educator at the former St. Emydius campus, I have witnessed the transformation of the yard at 201 Ashton from an abandoned-appearing space, to one that is a model for the neighborhood, making the nearby students and neighbors feel proud and inspired. It is my opinion that the hard work that has been placed into the creation of the yard, in particular the striking arbor and the warm, secure space it creates, has helped to spur the improvement of many neighboring properties, thereby transforming the neighborhood.

I implore you to consider granting the property a variance to allow the arbor to continue to exist in its current format. To remove or drastically alter it would have a direct negative impact on the community connections and model that the beautification of the yard, in particular the arbor, have created.

Sincerely,



Karen Blosski-Simon

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: **loretta jones** lorettaj_jones@yahoo.com
Subject: **For the Zoning Administrator**
Date: **Sep 19, 2022 at 8:37:43 PM**
To: raelyn98@hotmail.com, mihal.emberton@gmail.com

Dear Sir/Madam --

I'm a neighbor of Raelyn and Mihal and writing to you about the arbor in their yard. I support the arbor (and their garden in general) for a variety of reasons --

1) it's a relaxing and safe place for neighborhood gatherings -- offering an extremely pleasant, natural sanctuary for the neighborhood.

2) The aesthetics of the arbor fits in well with the overall landscape and design of the outdoor area with the garden and fountain. It supports the climbing plants which add to the beauty of the area.

3) Both the arbor and the yard are well maintained.

4) At night the outdoor lighting offers additional safety and a possible deterrent to home invasions/property thefts - which unfortunately are quite rampant in San Francisco these days.

Happy to speak more in person if required.

Thanks!

Loretta Jones
840 Head St, SF, CA 94132
[650-218-6280](tel:650-218-6280)

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

September 26, 2022

Dear San Francisco Zoning Administrator,

This letter is regarding the arbor and outdoor front yard space at 201 Ashton Ave in San Francisco. My family and I have had the pleasure of enjoying this space for community events such as monthly book club meetings, our elementary school's Parent Club Organization meeting, and SF Youth Baseball League team parties, along with numerous other group gatherings. The space Raelyn Ruppel and Mihal Emberton have created adds beauty, safety, and builds community. It would be a huge loss for this neighborhood if it was removed. Please consider all the wonderful things this outdoor space provides our community and let us continue to enjoy it as it is now.

Thank you,
Joanna Pfeffer and family

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: **Raelyn Ruppel** raelyn98@hotmail.com
Subject: **Fwd: letter of support**
Date: **Oct 1, 2022 at 11:04:13 AM**
To: **Mihal Emberton** mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: Dimitri Stamatis <dstamatis@gmail.com>
Date: September 30, 2022 at 9:52:45 PM PDT
To: raelyn98@hotmail.com
Cc: Colleen Carrigan <colleencarrigan@gmail.com>
Subject: letter of support

To whom it may concern:

I am very familiar with the intersection of Holloway & Ashton, as it's the south-eastern corner of the Ingleside Terraces neighborhood, where I've lived since 2015.

I appreciate the tremendous effort that Raelyn and Mihal have put into beautifying their garden. They've added a welcomed bit of charm, nature and beauty to what would otherwise be a drab, paved intersection.

I have also visited their lovely garden, when they've graciously hosted Commodore Sloat Elementary's PCO (Parents' Club Organization) meetings.

It is a lovely space, maintained by equally lovely and caring neighbors.

Thank you.

Dimitri Stamatis

Owner, 450 Monticello Street.

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Tami Volker
14 Glenview Drive
San Francisco, CA 94131
415-637-9153

Zoning Administrator

San Francisco Planning Department
49 South Van Ness Ave
San Francisco, CA 94103

Dear Zoning Administrator,

I am writing in support of the beautiful arbor in the front yard of Mihal Emberton and Raelyn Ruppel at 201 Ashton Avenue. The arbor provides a wonderful meeting place for the community, as well as beautifies the neighborhood. I attend monthly book club meetings held under the arbor. During the pandemic, the front yard and arbor were one of the few places that people could meet and socialize safely. Since then, it has continued to serve as a gathering place for book club, youth baseball and soccer team gatherings, and kids after school groups. I treasure the time I spend there, as does my child. The community and neighborhood are a better place because of Mihal and Raelyn's beautiful arbor and yard. It would be both unjust and a detriment to the community if their variance were not granted and the arbor was taken down.

Thank you for your sincere consideration,

Tami Volker

Tami Volker
10/02/2022

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

From: **Raelyn Ruppel** raelyn98@hotmail.com
Subject: **Fwd: Letter of support**
Date: **Oct 5, 2022 at 9:34:38 AM**
To: **Mihal Emberton** mihal.emberton@gmail.com

Sent from my iPhone

Begin forwarded message:

From: Gitanjali Rawat <geetlee@gmail.com>
Date: October 5, 2022 at 9:07:31 AM PDT
To: raelyn98@hotmail.com
Subject: Letter of support

Raelyn, I'm so sorry that I'm late. Just in case this helps.

Dear City officials,

I am Raelyn Ruppel and Mihal Emberton's neighbor. I live a block away from their beautiful home and have enjoyed their outdoor space on many occasions. Particularly, I want to highlight that I have enjoyed community gatherings in their lovely garden. Having recently moved to my new home, I was actively seeking ways to connect with my neighbors and community. Raelyn hosts a book club monthly and this has been an excellent way for me to meet with and strengthen relationships with fellow book readers.

Please consider my letter of support in your considerations.

Warmly,
Gitanjali Rawat
137 Ashton Ave, San Francisco, CA 94112
Ph: [512-879-7580](tel:512-879-7580)

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

To Whom It May Concern. Pertaining
To The Property At 201 Ashton. The Property
Owners, Raelyn + Mahal, Built a Beautiful
Arbor, A Fire Pit, Added Nice Plants And Made
The Front Of Their House Very Attractive,
And They Continue To Beautify The Neighborhood.

Mukul + Deborah Mukul
901 Holloway Ave.

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

[Exhibit AA](#)

Exhibit AA

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Richard Hendry

423 Faxon Avenue, San Francisco CA 94112

415-823-9988
Rhendry1000@gmail.com

September 30, 2017

To Whom It May Concern,

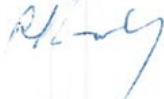
This is to state that the new fence at 201 Ashton is a good improvement to the neighborhood.

The area is a mix of cared-for and neglected houses. The street-side fence at 201 Ashton was run down and even falling until the current owners put in an excellent replacement. Previously, the fence was a detriment to the neighborhood. Run down properties invite crime and lower the quality of life of all of us.

In addition, the new fence better defines a difficult intersection, as this is a corner lot where Holloway has a jog to one side. The intersection is very large therefore and the old fence was proportionately too small; it got lost and was less visible to drivers negotiating the intersection. The new fence looks much more in place and fits the overall dimensions of the intersection much better. The fence is in proportion to the shrubbery at this address and the neighboring properties, as well as existing neighborhood fences and walls.

I join the other neighbors with whom I have spoken in supporting this improvement to the area. I hope the City will expeditiously approve the construction.

Warm regards,



Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

RAELYN AND MAHAL RUPPEL OWN THE
HOUSE AT 201 ASHTON. THEY HAVE MADE MANY
IMPROVEMENTS TO THEIR HOME INCLUDING
THE NEW FENCE THAT RAELYN HAS BUILT. THE
FENCE BLENDS IN NICELY WITH THEIR HOME
AND ALSO BEAUTIFIES THE NEIGHBORHOOD.
MY NAME IS MIKE MULESKY, RETIRED S.F.F.D.,
AND I LIVE ACROSS THE STREET AT 901 HOLLOWAY

Mike Mulesky
9-29-2017

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Karen and Rudyard Vance
920 Holloway Ave
San Francisco, CA 94132

September 11, 2017

To whom it may concern:

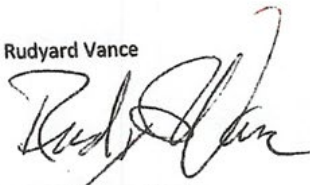
I live as the next door neighbor of Raelyn Ruppel and Mihal Emberton who reside on 201 Ashton Ave. I have lived here for over 30 years and I find them being neighbors has been an asset to our block and community. They have fixed up the outside appearance of their home with painting, landscape, outside lighting, wooden Pergola, water fountain, and a fence.

The fence was completed by Raelyn Ruppel and was a replacement to the old fence that was falling down and was an eye sore to the neighborhood. The replacement was a different design but was the same height and length as the old fence.

I am so happy that we have someone in our community that is putting an effort into making the outside appearance of their home a priority and I hope others follow.

Raelyn Ruppel and Mihal Emberton are wonderful, respectful, and quiet neighbors.

Rudyard Vance

A handwritten signature in black ink, appearing to read 'Rudyard Vance', written over a horizontal line.

920 Holloway, S.F., CA

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

The Cool Guys Market

845 Holloway Avenue • San Francisco, CA 94112
Phone: +15-452-1404

Date: 9/11/2017

Department of Building Inspection
Inspector: Carl Weaver
City and County of San Francisco
1660 Mission Street
San Francisco, CA 94103
415-558-6096

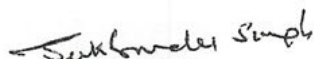
Dear Building Inspection Division:

My brother and I have owned our apartment building and corner market since 1995. Our property is directly across the street from Raelyn Ruppel and Mihal Emberton, the owners of 201 Ashton Avenue, and we have known them ever since they moved into their home in the fall of 2012. We have found both Raelyn and Mihal to be respectful and community-minded neighbors. We have witnessed their efforts to invest in the neighborhood, not only with their property improvements, but also with their enthusiasm in building relationships throughout the community.

In regards to their property improvements, we wholeheartedly support them. They have chosen to replace a derelict, rotting 4-foot fence, which had been in place for more than 20 years, with a well-built, attractive 4-foot fence and we couldn't be more pleased. We regularly encourage their efforts and daily watch countless neighbors, passersby, police officers, and the nearby firefighters relay sentiments of approval and praise as they drive by the property. In addition to the stately fence, Raelyn and Mihal have been able to plant about 20 trees in the front yard, put in outdoor lighting that helps to light the neighborhood, and have built a patio to allow them to enjoy spending time in the yard and therefore, the neighborhood.

We are also in our store from 6:30 AM until 10 PM every day and, in regards to Raelyn and Mihal's character, we have never found them to be noisy, disruptive or disrespectful. In contrast, they have proven to be engaged and involved community and neighborhood advocates. We are honored to have them as our neighbors and friends.

Sincerely,


Sukhjinder Singh

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

September 11, 2017

To Whom It May Concern:

I am writing this letter in support of our neighbor Raelyn Ruppel and her family at 201 Ashton Avenue. My husband Greg and I have lived at 218 Ashton for 30 years, and we are thrilled with the beautiful home improvement project Raelyn has been working on in replacing her fence. The old fence was in need of replacement. We as well as all the neighbors love the new fence. She and her family are a wonderful addition to the family, and if you went and asked all the surrounding neighbors, I'm sure you would hear the same. There has never been any problem with noise from her project or music, so we are puzzled as to why someone would feel the need to complain. It's very misguided. Raelyn helps keep an eye on the neighborhood for everyone while she is working at home. She is always respectful of the neighbors and the neighborhood and has taken the time to get to know everyone and the neighborhood is better for her and her family. She is a much needed and welcome addition to the neighborhood.

Please feel free to contact us with any questions.

Sincerely,



Linda and Greg Souza
218 Ashton Avenue
San Francisco, CA 94112

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

David R. McCauley
Akio K. Kawai
850 Head Street
San Francisco, CA 94132
Tel (415) 307-4390, (415) 350-7185

November 11, 2017

San Francisco Department of Building Inspection
1660 Mission Street
1st, 2nd, 5th Floor
San Francisco, CA 94103
Attn: Permit Services

Re: Fence at Residential Address 160 Ashton Avenue

Dear Permit Services Personnel,

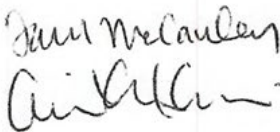
My name is David McCauley and my partner Akio Kawai and I have owned a home in Ingleside Terraces for the past 8 years. We are extremely proud to call this neighborhood our home and are favorably impressed when our neighbors take pride in their properties by maintaining, improving and beautifying their homes and yards.

It has come to our attention that that our friends and neighbors Mihal Emberton and Raelyn Ruppel have been informed by the City that the new fence that they have worked hard to build over this past summer has been found to be in violation of building codes due to a height restriction. While remaining respectful of local rules and ordinances we are asking that the City reconsider its position in this matter by allowing the fence to remain in place, at its current height. We offer the following for your consideration.

The fence is handmade, unique, and well-built. It complements the home and yard that it surrounds, does not obstruct the Ingleside Terraces stone gate, and neatly demarcates the line between public and private property. Keeping in mind that their home is situated at a very busy intersection, with several businesses nearby, we feel that the height of the fence suits the mixed-use neighborhood in which it is situated, and provides a measure of privacy and security for Mihal and Raelyn's family, which includes a young daughter and two large dogs.

We would be happy to meet with the individuals responsible for considering waivers in matters such as this to provide more insight to the unique characteristics and dynamics of our neighborhood and in particular this property and its busy location.

Respectfully Yours,
David McCauley
Akio Kawai



Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

201 Ashton - 2018-002358VAR

Patrick Otellini <patrickotellini@gmail.com>

Sat 7/7/2018 10:25 AM

To: jeffery.horn@sfgov.org <jeffery.horn@sfgov.org>

Cc: raelyn98@hotmail.com <raelyn98@hotmail.com>

To whom it may concern,

My wife and I are the owners of 225 Ashton Avenue and we have no objections to the variance application regarding 201 Ashton Avenue. The owners have been fantastic neighbors since they moved in.

Patrick and Marissa Otellini

Sent from my iPhone

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

7/25/18 Public Hearing for Variance for Fences at 201 Ashton Avenue

Mame Campbell <mamesf@gmail.com>

Tue 7/17/2018 8:19 PM

To: jeffrey.horn@sfgov.org <jeffrey.horn@sfgov.org>

Cc: Raelyn Ruppel <raelyn98@hotmail.com>

Mr. Horn,

I am the owner and resident of the property located at 235 Ashton Avenue.

I am writing to you to state that I have **no objection** to the solid wooden fences constructed on Ashton and Holloway Avenues for the property at 201 Ashton Avenue, owned by Raelyn Ruppel. The fences create a lovely front yard for my neighbors and I hope the variance will be approved.

If you have any questions, you can contact me at mamesf@gmail.com.

Thank you.

Mariellen Campbell

Public Hearing/Variance

Sue Fahey <suefahey7@gmail.com>

Mon 7/16/2018 3:48 PM

To: Jeffrey.horn@sfgov.org <Jeffrey.horn@sfgov.org>

Cc: Raelyn98@hotmail.com <Raelyn98@hotmail.com>

Re: Variance 2018-002358V (201 Ashton Avenue)

Dear Jeff,

I am a property owner on Holloway Avenue, just a few houses away from Raelyn Ruppel, the applicant in the above variance.

Unfortunately, I am not able to attend the July 25th Public Hearing, but would like to submit to you, my concerns and comments as follows:

1) this was a like-for-like project, replacing a blighted, 4-foot wood fence, with a new, 4-foot wood fence. The removal of blight is an important factor in improving our property values and reducing crime in this neighborhood. Here is an article that supports those ideas: https://www.fs.fed.us/nrs/pubs/jrnl/2016/nrs_2016_troy_001.pdf

2) the fence does not limit community engagement but rather has encouraged it as our neighbors regularly enjoy what the new fence brings to the community and we often meet and converse over the short, 4-foot fence. (I have even met new neighbors gathered at the fence) The short height of the fence also allows neighbors to enjoy the 28 trees and countless plants and flowers that the homeowners have already added to the yard. Of note, the homeowners have planted 10 citrus trees, 6 pear varieties on 2 espaliered pear trees, 6 Apple

varieties on 2 espaliered Apple trees, and 6 Mt. Fuji Japanese Cherry trees, to name some of the homeowners' accomplishments. This is a major improvement from previous owners.

3) as the homeowners have a young child and young niece, as well as host play-dates for their child, the 4-foot height of the fence creates an ideal amount of safety from the traffic of the busy corner and the adjacent business districts, to allow the children to play outside safely.

4) the homeowners live at the corner of a busy and unusual intersection and prior to their ownership, the home has been hit by cars on multiple occasions. The fence is appropriately visible and should act to catch the attention of distracted drivers to prevent an additional accident.

5) the beautiful structure of the fence has been instrumental in preventing blowing trash from accumulating along it and really complements the home and the neighborhood. As a neighbor, I much prefer this elegant fence to a chain link, which may comply with city rules but does not add beauty or value to a neighborhood.

I do hope you consider these concerns not only for our Ingleside neighborhood but for Raelyn Ruppel as well,

Sincerely,

Sue Fahey
Holloway Avenue
Ingleside Terraces

Public Hearing- Fence at 201 Ashton

Gina Deignan <gpazdan@gmail.com>

Tue 7/17/2018 11:12 AM

To: jeffrey.horn@sfgov.org <jeffrey.horn@sfgov.org>; Raelyn Ruppel <Raelyn98@hotmail.com>

Cc: JD <jdeignan@gmail.com>

Dear Mr. Horn,

My husband and I will not be able to make the Public Hearing on Wednesday, July 25th because we will be at work. However, we would like to voice our support to legalize the fences that are the subject of the upcoming public hearing, which are located along the property at 201 Ashton Avenue. (Record # 2018-002358VAR).

First, we were surprised and disappointed that there was any issue about this fence, as it was a great improvement over what had been in its place before- a rickety old fence of similar size. This solid wooden fence is also far nicer than the chain-link fences along other properties on Holloway, which inevitably end up in dangerous disrepair as they break and rust, creating a hazard along a popular walking route and where my kids often ride bikes. This fence aligns with the beautification efforts that the area is working to promote, currently focused only along Ocean Avenue.

Second, this family is concerned about safety of their family, and we share that concern. We moved into our house in 2013, and shortly thereafter there were several incidents of gunshots along Ashland. Of course wooden fences do not stop bullets, but we are so grateful that a nice family (who happens to have a daughter the same age as ours, 6) moved into this home and is interested in maintaining a safe, pleasant, family-oriented neighborhood. And, especially at this corner along Ashland, a closed fence is important for additional safety while the kids and families spend time outside in their yard.

Third, it is clear that Ingeside and Ingleside Terrace has a mix of homeowners who care for their homes/properties and some that, unfortunately, clearly do not. We wish, for the sake of our property

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

value, aesthetics and an overall positive sense of community, more homeowners took even a fraction of the pride and time to maintain such a lovely exterior space around their home. Ultimately this contributes significantly to building a better community, one home at a time.

Thank you for considering my family's perspective on this issue. We hope to hear that this fence will be legalized without issue. And thanks to Raelyn and Mihal for helping to make Ingleside Terrace a safer and more beautiful neighborhood!

Kind regards,
Gina & Jeff Deignan
860 Head Street, SF

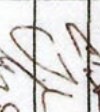
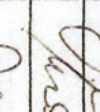
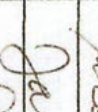
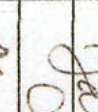
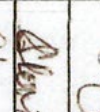
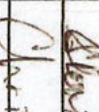
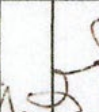
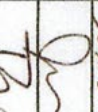
Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Exhibit BB

Exhibit BB

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

I am a neighbor of Mihal Emberton and Raelyn Ruppel, who own 201 Ashton Avenue, San Francisco, and I support their repair of the 30-year old, dilapidated, hazardous, 4-foot wooden fence surrounding their front yard as the repairs are architecturally pleasing, decrease crime, improve property values, improve pedestrian safety, and encourage neighbors to spend time outside, participating in community engagement.

Signature	Printed Name	Address	Phone Number (optional)
	Bruce S. Francis	960 Holloway Ave	(415) 542-8353
	Bob Shelly	980 Holloway Ave.	(415) 596-4445
	Julia Lamparter	975 Holloway Ave.	(415) 866-1051
	Sandra Albert	565 BRIGHT STREET	(415) 504-2871
	Jane Denitt	561 BRIGHT ST	(415) 987-7280
	ARLENE JACOB	557 BRIGHT ST 3F	415-587-7518
	Gloria Williams	541 BRIGHT ST. SF	415 577-7435
	Christine Krayer	529 BRIGHT	415-200-8740
	Yoram Huang	517 BRIGHT	415-333-3556
	Jason Blunden	554 BRIGHT ST	(415) 533 5560
	DAVID SANDEN	558 BRIGHT ST	415-706-9460
	Jack Reeder	566 BRIGHT ST	
	Tamara Chin	572 BRIGHT ST.	415-916-217-9369

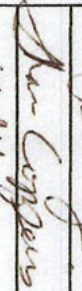
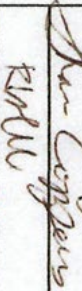
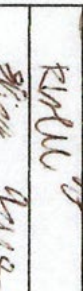
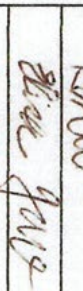
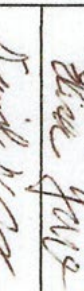
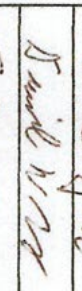
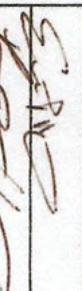
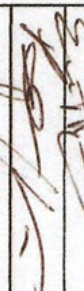
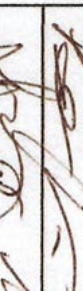
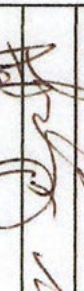
Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

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Signature	Printed Name	Address	Phone Number (optional)
	Cyrene Tan S	695 Orizaba St	
	David Keith	687 Orizaba	
	Sam Oron	671 Orizaba Ave	
	Lisa Leiva	667 Orizaba Ave	
	Steve Mu	663 Orizaba Ave	
	CHARLES KULAS	651 ORIZABA AVE	
	BRIAN TENG	659 ORIZABA AVE	
	Susan Puck	647 ORIZABA AVE	
	AMBER HUMBER	609 ORIZABA AVE	
	M. Leiva	101 Ashton Ave	
	Eric N	100 Ashton Ave	
	Mihal Emberton	201 Ashton Ave	

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

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Signature	Printed Name	Address	Phone Number (optional)
	KEVIN WOODS	117 ASHTON AVE, SF	415-812-1011
	Sharon Capers	118 Ashton Ave SF	415 361-8885
	Ruelle Nicolls	141 Ashton Ave St	
	ELISA GATO	145 ASHTON AVE.	
	David Woc	156 Ashton Ave	
	Eugene Escobar	149 Ashton Ave	
	PETER RIDEI	160 ASHTON	
	Landis Lee	169 Ashton	
	John Davis	174 Ashton Ave	
	Ed Spichal	174 Ashton Ave	
	Shelly Strom	110 Ashton Ave, SF	415 816 7055
	Pei Hua He	211 ASHTON AVE	
	Kari St. John Bell	549 Bryant Street	415.377.3429

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

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Signature	Printed Name	Address	Phone Number (optional)
	Chris Moreno	134 Ashton Ave, S.F.	510-290-1420
	Shaele Moore	134 Ashton Ave, SF	650-658-7428
	Sue Fahy	930 Holloway Ave	415-586-2719
	Annette	930 Holloway Ave	415-531-3865
	Rene J. Peirano	533 Knight Street	415-205-0590
	Stephen	549 Bight St.	707-701-1105
	Mimi	930 Holloway Ave	415-333-6438
	Micol Bell	530 BRIGHT	415-587-3614
	Emelino Pinto	760 Holloway Ave	415-286-4384
	William	110 Bayview St	415-533-8057
	Mrs. Josephine	576 BRIGHT ST.	415-577-7402
	ADRIENNE	23 Jule Avenue	415-606-7469
	LINDA HOPE	200 MIRAMAR & Holloway	415-334-3603

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

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Signature	Printed Name	Address	Phone Number (optional)
Karenie Dolly	Lauren Dolly	1018 Capital Ave	415-670-1955
Frederic Holborn	Joslyn Grodzberg	685 - 0012403 st	415 335 5010
Mr. & Mrs. Holbert	Leo Herbert	6770 KIZABA AV	415-740-6547
Ann Nylan	Ann Nylan	651 Curule Avenue	415-278-5101
David McCarty	David McCarty	4850 Head St	415-307-4390

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

[Exhibit VV](#)

Exhibit VV

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

3/8/25, 1:25 PM

Gmail - today's filings

That still works for me. You can reach me at (415) 554-4690 Thursday morning. Talk to you then.

Brian



Brian F. Crossman

Deputy City Attorney

Office of City Attorney David Chiu

(415) 554-4690 Direct

www.sfcityattorney.org

Find us on: Facebook Twitter Instagram

[Quoted text hidden]



image001.jpg
37K

miha emberton <miha.emberton@gmail.com>
To: "Crossman, Brian (CAT)" <Brian.Crossman@sfcityatty.org>

Thu, Mar 6, 2025 at 12:11 PM

Dear Brian,

Thank you for meeting and conferring today, March 6, 2024, at 10AM to just before 11AM via phone, to ask for assistance with understanding how the 7th Amended Complaint addresses the Judge's Order Sustaining the Demurrer with leave to amend and for discussing SF Superior Court case, CPF-25-518888, Emberton vs Board of Appeals requesting judicial review of the Board of Appeals' decision to sustain Planning's mandate for and then denial of a Variance for a garden feature that does not violate planning code.

Specifically regarding the Writ of Mandate case, CPF-25-518888, you mentioned that *the Petitioner must request the administrative record from the City* as part of the legal Writ-of-Mandate process and the Petitioner must then provide the cost of such an administrative record which you shared requires a \$5,000.00 deposit and can range in cost from \$50,000.00 to \$100,000.00 *or more* without any ability of the City Attorney's Office to provide an accurate estimate for such services. I expressed concern that such a cost can and would create an insurmountable barrier in accessing Judicial review for civil rights violations from the City's final administrative decisions.

In reviewing State Law describing the requirements and process for obtaining the administrative record for a petition for a Writ of Mandate,

CCCP §1089.5 legislates: "Where a petition for writ of mandate is filed in the trial court pursuant to Section 1088.5, and where a record of the proceedings to be reviewed has been filed with the petition or where no record of a proceeding is required, the

<https://mail.google.com/mail/u/0/?ik=f2cf3dad8b&view=pt&search=all&permthid=thread-a:r-255856176295799040&simpl=msg-a:r-1396070094024053...> 4/5

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

3/8/25, 1:25 PM

Gmail - today's filings

respondent shall answer or otherwise respond within 30 days after service of the petition. However, where a record of the proceeding to be reviewed has been requested pursuant to Section 11523 of the Government Code, or otherwise, and has not been filed with the petition, the party upon whom the petition has been served, including any real party in interest, shall answer or otherwise respond within 30 days following receipt of a copy of the record."

And CA Government Code §11523 legislates: "Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure, subject, however, to the statutes relating to the particular agency. Except as otherwise provided in this section, the petition shall be filed within 30 days after the last day on which reconsideration can be ordered. The right to petition shall not be affected by the failure to seek reconsideration before the agency. On request of the petitioner for a record of the proceedings, the complete record of the proceedings, or the parts thereof as are designated by the petitioner in the request, shall be prepared by the Office of Administrative Hearings or the agency and shall be delivered to the petitioner, within 30 days after the request, which time shall be extended for good cause shown, upon the payment of the cost for the preparation of the transcript, the cost for preparation of other portions of the record and for certification thereof. The complete record includes the pleadings, all notices and orders issued by the agency, any proposed decision by an administrative law judge, the final decision, a transcript of all proceedings, the exhibits admitted or rejected, the written evidence and any other papers in the case. If the petitioner, within 10 days after the last day on which reconsideration can be ordered, requests the agency to prepare all or any part of the record, the time within which a petition may be filed shall be extended until 30 days after its delivery to him or her. The agency may file with the court the original of any document in the record in lieu of a copy thereof. If the petitioner prevails in overturning the administrative decision following judicial review, the agency shall reimburse the petitioner for all costs of transcript preparation, compilation of the record, and certification."

And CCCP §1094 legislates: "the case may be heard on the papers of the applicant."

And CCCP §1094.5 legislates: "All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court."

And CCCP §1094.5 further legislates: "Where the petitioner has proceeded pursuant to Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court."

I could not find any rule of law that mandates that the Petitioner request the administrative record in order for the Court to move forward on a petition for a Writ of Mandate, especially when the record of the proceedings has already been filed with the petition for the Writ of Mandate. Rather CCCP §1094 states specifically that **"the case may be heard on the papers of the applicant."** Please do share the State Laws that informed your statement,

'Petitioner must request the administrative record from the City as part of the legal Writ-of-Mandate process and the Petitioner must then provide the cost of such an administrative record which you shared requires a \$5,000.00 deposit and can range in cost from \$50,000.00 to \$100,000.00 or more without any ability of the City Attorney's Office to provide an accurate estimate for such services.'

if there is a State statute that I have overlooked....

Best,

Mihal

[Quoted text hidden]

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Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Exhibit XX

Exhibit XX

Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

CITY AND COUNTY OF SAN FRANCISCO



DAVID CHIU
City Attorney

OFFICE OF THE CITY ATTORNEY

BRIAN F. CROSSMAN
Deputy City Attorney

Direct Dial: (415) 554-4690
Email: brian.crossman@sfcityattorney.org

March 11, 2025

Via Email Only

Mihal Emberton
201 Ashton Avenue
San Francisco, CA 94112

Re: *Emberton v. SF Board of Appeals; City & County of San Francisco* (SF Superior Court Case No. CPF-25-518888); Administrative Record

Dear Mihal:

I am writing to follow up on our telephone call on March 6 and in response to your subsequent email that same day regarding the administrative record of proceedings in the above-referenced matter. We discussed the legal requirements for preparing the administrative record and in your email, you asked for clarification on a petitioner's obligation to request the record from the City. Please see Code of Civil Procedure section 1094.6(c), which provides that for a petition for writ of mandate, such as yours, "[t]he complete record of the proceedings shall be prepared by the local agency ... and shall be delivered to the petitioner within 190 days *after he has filed a written request therefor*." (Code Civ. Proc., § 1094.6(c) [emphasis added].) Thus, under section 1094.6(c), the petitioner files a written request for the administrative record, which by law, must be prepared by the City, not the petitioner.

Though the City must prepare the record, as the petitioner in this matter, you are responsible for the cost of preparation. (Code Civ. Proc., § 1094.5(a) ["the cost of preparing the record shall be borne by the petitioner."].) Your obligation to pay for the record includes the cost of two copies—yours and the court's copy. (*Foster v. Civil Service Commission of Los Angeles County* (1983) 142 Cal.App.3d 444, 453 ["[I]t is the responsibility of the petitioner to make available to the trial court an adequate record of the administrative proceeding"].) The final cost of the record represents the actual costs the City incurs in preparing the copies of the record, including certified transcripts of each of the relevant hearings, and the record's index, as well as the cost of reviewing and copying the documents, exclusive of secretarial time. Our paralegals, who prepare the records, bill out at hourly rates of approximately \$185.00 to \$236.00. As we discussed, it is not uncommon for the cost of preparing a record of proceedings to range from \$10,000 to \$50,000, and the City requires a standard deposit of \$5,000 before significant work on the record will commence. If the actual cost of preparing the record is less than \$5,000, you will be refunded the difference.

The City is entitled to advance payment for an administrative record and may withhold delivery of the record to you and the court until payment is received. (See *Black Historical Society v. City and County of San Diego* (2005) 134 Cal.App.4th 670, 677–78.) Thus, the City will not provide copies of the completed record until the City has been fully reimbursed for the time and costs incurred.

CITY HALL · 1 DR. CARLTON B. GOODLETT PLACE, ROOM 234 · SAN FRANCISCO, CALIFORNIA 94102-4682
RECEPTION: (415) 554-4700 · WWW.SFCITYATTORNEY.ORG

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Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY

Letter to Mihal Emberton
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March 11, 2025

At a minimum, the administrative record must include a transcript of all proceedings, all pleadings, all notices and orders, any proposed decision, the final decision, all exhibits, all written evidence, and any other papers in the case. (Code Civ. Proc., § 1094.6(c).) Though your petition appears to primarily challenge the Board of Appeals' denial of your variance (Appeal No. 24-051), the relief you request is much broader. (See, e.g., Petition, ¶ 602 [stay of pending administrative proceedings]; ¶ 606 [reversal of denial of encroachment permit]; ¶ 607 [reversal of DPW email violation notices]; ¶¶ 609–611 [declarations and writs of mandate regarding City policy]; ¶¶ 612–620 [injunctions and civil penalties].) Accordingly, the administrative record of proceedings in this matter is not limited to the records attached to the petition or even the Board of Appeals' file for Appeal No. 24-051, but rather would also include hearing transcripts, records pertaining to the ongoing administrative proceedings you seek to stay, as well as department files concerning the notices and policies that you seek to have reversed. The City remains open to meeting and conferring regarding narrowing the scope of the record in a way that may reduce the cost of preparation.

If you'd like the City to proceed with preparation of the administrative record, you may submit payment by check for the deposit in the amount of \$5,000, made out to the City and County of San Francisco, sent to my attention to the following address:

Brian Crossman
San Francisco City Attorney's Office
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

The City will begin organizing and indexing the administrative record once the deposit has been received and will share a draft of the index with you for review and comment prior to finalizing the record.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

DAVID CHIU
City Attorney


BRIAN CROSSMAN
Deputy City Attorney

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APPENDIX

CITY PROCEEDINGS

SF DBI (Department of Building Inspection) Proceedings

Hearing	Documents
Recording of 3/7/23 DBI Director's Hearing No: 201703961, to discuss DPW's hold on fence-repair permit 2017-1011-0923 preventing finalization, and which resulted in DBI's Order of Abatement, despite the <i>absence</i> of any unsafe property to abate. UNSAFE PROPERTY IS REQUIRED BY BUILDING CODE 102A (SUBSTANTIVE DUE PROCESS) TO JUSTIFY AN ORDER OF ABATEMENT 0:0:21 Hearing Officer Brett Howard: "This hearing is being recorded and conducted under section 102A inclusive to the San Francisco building code. The purpose of these hearings is to allow property representatives to show cause as to why the buildings on today's agenda should not be ordered to be vacated, repaired, altered, or demolished as is appropriate." NO JURISDICTION TO REVIEW UNCONSTITUTIONAL SEARCHES OR UNLAWFUL VIOLATION NOTICES 0:7:28 Brett Howard: "I'm trying to interrupt for one second. This is not a court of law, so we don't need all of this. This is a bit much. Let's deal with the fact that there was a permit that was filed in 2017. Why wasn't it picked up and why wasn't the work done?" NO JURISDICTION TO CURE DPW'S UNLAWFUL HOLD ON THE FENCE-REPAIR PERMIT 0:9:47 Appellant: "So I don't know how to resolve the hold on the permit by DPW." Housing Inspection and Code Enforcement Representative, John Hinchion: "You would submit revised drawings showing the fence being reduced to 3-feet. That's still..." Appellant: "Despite the fact, despite the fact that we had a variance hearing legalizing the 4-foot height of the fence?" Brett Howard: "That's something you bring up with DPW I assume. I mean I don't know. If they granted you a variance hearing for the 4-foot height of the fence then they would have no issue about signing off on the permit." Appellant: "That's correct."	 Exhibit AE Appellant's brief submitted to DB  Exhibit AF Transcript of 3.7.2023 DBI Direct

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Hearing	Documents
Brett Howard: "So why don't we do that?" Appellant: "That would be great." Brett Howard: "So why don't you follow up with DPW?" Appellant: "We have followed up with DPW multiple, multiple times, there's an email string going all the way up to Nicolas Huff, who does not believe that the variance hearing was proper jurisdiction, and they believe that they have jurisdiction and Planning does not, and that is an impasse. I asked to meet an Alternative Dispute Resolution in Court, and he said that that is not going to happen and its impossible." CONVERSION RATIFIED BY DBI WITH DECISION IGNORANT OF EVIDENCE 00:10:49 John Hinchion: "You are aware that some of the work you did was in the public way, which they would have jurisdiction over?" Appellant: "They are alleging that 9-feet of our property is a public way when it is not, and I added documentation in the folder for that." Brett Howard: "This has been going on for far too long. This back and forth between you, yourselves and your clients, and DPW whatever, that you say that is your property and they say is their property, um" Appellant: "There is a case in federal court regarding this." Brett Howard: "We're not going to wait for the federal court to make its decision, so I'm going to move to issue an Order of Abatement. Next Case."	

SF Planning Variance Proceedings

Date	Hearing	Documents
7/25/18	Recording of Planning Hearing on Application for Zoning Variance 2018-002358VAR, 201 ASHTON AVENUE, to legalize the 4-ft height of the <i>historically</i> 4-ft fence as a prerequisite to being able to complete the fence-repair permit. ORAL TESTIMONY FROM 3 MEMBERS OF THE PUBLIC REGARDING THE PUBLIC BENEFIT OF THE SAFE, REPAIRED FENCE	 Exhibit AI Transcript of 7.25.2018 Variance  Exhibit AA 10 public comments of support

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Date	Hearing	Documents
	00:36:15 Scott F. Sanchez, Zoning Administrator: "Is there any public comment, item number 8 for 201 Ashton Ave? Please step forward." 00:36:17 Eva Atijera-Taylor, Recording Secretary: "You have 3 minutes, ma'am." 00:36:17 Laurie Dolly, Public Comment in Support of Variance: "Morning. My name is Laurie Dolly. I've lived in the neighborhood since 1981. Been a homeowner since 1987. Everyone drives by this house. It is the main drive between getting off of 280 and going to San Francisco State University. Before they put in a stop sign there, that house was regularly hit by cars going through that intersection and those columns that they show, they were, that's what was getting bashed. I mean, the front door was being saved because the cars were hitting those columns. Everybody knows our new neighbors. I talked to some of the old neighbors before, but they couldn't play outside, their kids couldn't play outside; it simply wasn't safe. So even before they built the fence, they built a water fountain. They've got a nice fire pit out in front and they started building the fence. What they didn't show you is a picture at night. On the Holloway side, Raelyn put in down lights right there, so when you're walking your dog, which is how we originally met because we both have dogs, I was out for a walk. They've made the whole side of the neighborhood and the sidewalk safer. That fence is low enough to pet their dog. Their fence is low enough to have a conversation. Because they are outside like they said, people do stop and talk to them. In the photograph, if you could see it up close, actually doesn't do the fence justice. It's beautiful. And one of my daughters is moved away, so when she comes back for Christmas, she's been looking at the progress over the time; she goes, "Wow, that looks really nice. That looks really really nice." And so many people in the neighborhood did sign the petition. I don't know if anyone here is old enough to remember, but that neighborhood in the 80s was kind of blighted and there were a lot of drugs in the neighborhood and people like Mihal and Raelyn have moved in, improved their properties, and you	 Exhibit BB 57 Public Signatures of Support

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Date	Hearing	Documents
	know, AKA the, you know, the Broken Window Theory, that whole neighborhood, that whole street has gotten a lot nicer and a lot safer. Thank you. 00:38:46 Scott F. Sanchez, Zoning Administrator: “Thank you very much. Any other public comment on item number 8 for 201 Ashton Ave?” 00:38:56 Eva Atijera-Taylor, Recording Secretary: “You also have 3 minutes, Sir.” 00:38:58 Sukhjinder Singh, Public Comment in Support of Variance: “I have a store next door to this house. And this fence, <i>she made it</i>, is so beautiful and is so strong that it raised the value of <i>my</i> property. So, before this, long time back, this house used to be a drug house in the 70s. And after that two owners have seen there, but they have not made any improvements to this house. And now they moved about 6-7 years back and they have made much improvement. This fence is so beautiful that everybody appreciate when they were making it; at least 50 customers, <i>mine</i>, they say she working so hard on this fence. So, this fence is beautiful. If it there any kind of clause that not satisfied, that should be overseen, that’s the point. Thank you.” 00:39:48 Scott F. Sanchez, Zoning Administrator: “Thank you. Any other public comment? Please step forward Sir.” 00:40:04 Eva Atijera-Taylor, Recording Secretary: “You have 3 minutes, Sir.” 00:40:04 Richard Hendry, Public Comment in Support of Variance: “I’m Richard Hendry. I live at 423 Faxon which is a couple of blocks up Holloway. And I’ve, we moved into the neighborhood in 2013. In the 60s, I lived across the hill in Ocean View and being like 10-12 years old at the time, we wandered all over the neighborhood. And I can definitely tell you that this area used to be, I mean my area used to be dangerous, this area was dangerous with different gangs. That’s a long time ago and of course everything has changed, but when we moved in in	

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Date	Hearing	Documents
	2013, the old picket fence was out front, the house was painted differently, the yard wasn't fixed up. And again, like others, I got to know the ladies by walking my dog. I can say that I make a point of walking past this house, because if they're out in the yard I get to talk to them. And I'll lean on the fence, I'm only five-six so it's not that bad, and pet their dog as was said, and we talk about all kinds of things. We talk about, sometimes about the petty theft in the neighborhood, package stealing. Someone said that there used to be drugs. Well, there's still drugs. It's far less. But, and by the way, I go into the Good Guys market <i>because I'm up there</i>. And it's one of the few remaining corner stores in the area, but there's stuff down along Ocean, there's Whole Foods, there's a Safeway up the hill. And I, I go in and get my lottery ticket. This to me is a vast improvement [<i>gesturing to the overhead projection of the repaired fence</i>]. I like it. I think the design of the fence is <i>perfect</i> with the house. And I also want to say that I, I was, one of the one of the things I noticed was the danger of that intersection because I drive there. And I'm one of the ones who, I travel, so I'm headed down Holloway to get to 280 to get to the airport. And a lot of times, you know that intersection right there, you, you drive from, come down Holloway <i>straight at that house</i> and then there's a dodge-let. So, this fence I think does improve safety and it's certainly better for the little kids I see playing there, and seeing the little kids makes my life better. So that's all." 00:43:28 Scott F. Sanchez, Zoning Administrator: "OK. Thank you. So, with that, I'll take the, close public hearing. I appreciate, I appreciate all public comment, but in particular appreciate the fact that the public comes out in support of a project as something even kind of as small as this, to take time out of the day to come out to support your neighbors, it says a lot, and I appreciate the the comments that were provided. They're very helpful."	
1/25/23	Video of Planning Hearing on Application for Zoning Variance 2022-001463VAR, 201 ASHTON	Agenda.

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Date	Hearing	Documents
	AVENUE, to legalize the safe, code-compliant arbor/solarium. NO JURISDICTION TO EVALUATE THE LEGALITY OF SEARCHES AND VIOLATION NOTICES = PRESUMPTION OF GUILT WITHOUT DUE PROCESS: Zoning Administrator, Corey Teague: “The challenge with the Variance is that we’re dealing with features that are generally proposed in such a way that don’t meet the Planning code and the findings for a Variance require that there has to be some kind of exceptional and extraordinary circumstance that’s creating a hardship or impractical difficulty. I think, without making any final decisions on this case, I think that’s where the challenges rise. The subject property is kind of a standard lot size for this area...It is a corner lot, so it gets a little bit more light and air than maybe other more midblock lots. It does have a flat, very usable rear yard space so it is not necessarily a situation where the front setback is the only option for any open space. And while the way this [arbor] has been designed and built out may be very attractive as it is, obviously this type of feature isn’t a necessary component of usable open space and it is located within the required front setback. So I think those are the challenges when reviewing this Variance.”	 Exhibit Y Appellant's Brief for Planning's Va  Exhibit Z 26 public comments of support

SF Board of Appeals Proceedings

Appeal	Documents
(1 of 3) Video of 2/7/24, Board of Appeals Hearing, Board of Appeals #23-067 – Emberton vs. SFPW-BSM [DPW], appealing DPW’s denial of mandated Minor Sidewalk Encroachment Permit. NO PROBABLE CAUSE 0:35:20 Commissioner Trasviña: “What triggered the City’s attention on this one [property]?” DPW: “In this case I believe there was a complaint for something else on the property.” Commissioner Trasviña: “It was for music... Is it wrong to look at this as ‘somebody complained about loud music’ and now this property owner and similarly situated property owners are described as privatizing a part of what they consider to be their property at a danger of losing their property?... I’m asking	Meeting Minutes. Appellant’s and Respondent’s Briefs.  Exhibit AL Appellants slide deck for 2.7.2024

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Appeal	Documents
whether the department's priorities have resulted in that situation?" UNCONFINED SEARCHES 0:37:41 Commissioner Swig: "When there is an NOV in my experience, does that not stimulate stuff? So, if a building has an NOV on it, Mr. Birmingham [DBI acting chief building inspector] goes out and investigates the NOV and sees, a uh oh, a couple more things that are really wrong, does that not stimulate an action? Does that stimulate the same action as it would for Mr. Birmingham, if DBI went and investigated an NOV and found, yup, that's wrong, but oh my goodness, what's this? Is that kind of the action that happens?" DPW: "That does happen, yes. So, yes, like I said, a 311 call could trigger an inspection, an inspector to go out there. Or an inspector checking something else, so a DBI inspector may be out there visiting for whatever reason, and they could realize that there is an encroachment, or a problem, or a possible encroachment and yes, trigger that further action." CONVERSION IS UNSUPPORTED 0:40:53 Commissioner Trasviña: "In this area that's in dispute, is it the City's position that it belongs to the City or that it belongs to the homeowner?" DPW: "It belongs to the City." Commissioner Trasviña: "So for decades that's been in disrepair with a bad fence. I happen to have walked that block I think as early as 1961, and the testimony from the neighbors is that this homeowner has made tremendous improvements. So, I'm wondering, has the City done anything to address the problems that have existed there over the years?" DPW: "As far as Noticing to Repair?" Commissioner Trasviña "The record says there's been a 4-foot fence for years, the difference now is that it's a fence that has design, its picturesque, people like it. Before it was a mess; so, that was the City's fence. What has the City done over these years to fulfill its responsibilities to that property?" DPW: "We don't actively go, our inspectors are not actively going from block to block looking for these types of situations and tagging them throughout the City." Commissioner Trasviña: "But it's the City's property, you're saying; so the City is not doing much to maintain its own property." DPW: "No..."	

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Appeal	Documents
FALSIFIES EVIDENCE VIOLATING ATTORNEY'S LEGAL DUTY 0:57:18 City Attorney, Jen Huber: "Public Works has determined that a permit is required because, according to City records, the land is owned by the City." CONVERTING ONE EASEMENT WITHOUT CONVERTING ALL EASEMENTS VIOLATES DUE PROCESS AND EQUAL PROTECTION AND ATTORNEY'S LEGAL DUTY 0:58:01 City Attorney, Jen Huber: "there were questions around whether this would affect other neighbors, I don't believe that it would." DEPRIVATION OF SUBSTANTTIVE DUE PROCESS & EQUAL PROTECTION 1:7:21 Commissioner Trasviña: "I also don't quite understand how we can say that we are going to recognize the City's determination of the right-of-way, which is in dispute, and not have it affect other property owners? As Commissioner Swig said, 'this property owner is not being singled out.' If that's the case, then every other property owner, similarly situated, is at risk of losing part of their property that they have had and enjoyed, and previous people have enjoyed, for 100 years?! 100 years?! And the City is now saying, because of a music complaint?! I don't understand the priorities of some of these departments. We're hemorrhaging money as a City budget, and we're spending money going after one property owner who put up a fence that unanimously the neighbors, I think to the tune of 98 pages of comments from neighbors saying 'this is an improvement over what was there,' and anybody that's lived out there knows that this property looks better than any time. And if it was belonging to the City, then where was the City for that 100 years to take care of it?... It is not fair for this property owner to have improved that corner to the extent that they have as demonstrated in the record, and then end up with, 'oh, you're privatizing this area.' Privatizing the area?! This is her home. This is their home and yes, they have improved it, and the City hadn't done that for decades. So, I am not pleased by the approach that's been taken by the department and the potential that this could affect many, many homeowners... I also think that there are others who should look at this situation and if it is a widespread situation then there are some other remedies and actions that the City should aid departments and the supervisors should take to not penalize and not make a homeowner, who has improved property, in a much worse situation than they previously were."	

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Appeal	Documents
(2 of 3) Video of 5/15/24, Board of Appeals Hearing, Board of Appeals #23-067 – Emberton vs. SFPW-BSM [DPW], appealing DPW’s denial of mandated Minor Sidewalk Encroachment Permit.	Meeting Minutes. Appellant’s and Respondent’s Briefs.  Exhibit AO Appellant's slide deck
(3 of 3) Video of 6/26/24, Board of Appeals Hearing, Board of Appeals #23-067 – Emberton vs. SFPW-BSM [DPW], appealing DPW’s denial of mandated Minor Sidewalk Encroachment Permit. CONVERSION 0:54:18 Commissioner Swig: “What the Appellant, property owner, put forth in her testimony just now, which was eloquent, convincing. I’m not a specialist in law, nor unlike my four cohorts up here am I a lawyer, so I haven’t had a chance to do my due diligence, but it was convincing, it was eloquent. But it also, in my view, if we accepted it [that the right-of-way is private property], nullify just about every action taken by DPW as a matter of course in the City of San Francisco for seemingly decades. So, when somebody presents testimony eloquently and convincingly as she did and then five minutes before a representative from DPW presents eloquently and substantially what has been reasonable and customary behavior for decades, how do you deal with that? Is it something that should be beyond our jurisdiction and should be taken up by Superior Court in a civil action? Or are we in a position to completely nullify and fly in the face of the actions of the City of San Francisco for a period of at least decades?” LACK OF JURISDICTION 1:2:50 Commissioner Eppler: “There’s a question that was raised by the Appellant of whether this is public land or private land, and that is not a question that we’re going to answer because that’s a State Court question.”	Meeting Minutes. Appellant’s and Respondent’s Briefs.  Exhibit AS Appellant's slide deck for 6.26.20:
Video of 10/23/24, Board of Appeals Hearing, Appeal No. 24-051, Emberton vs. Zoning Administrator, subject property at 201 Ashton Avenue, appealing Planning’s denial of mandated Variance.	Meeting Minutes. Appellant’s and Respondent’s Briefs.

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Appeal	Documents
	 Exhibit BA Appellant's slide deck for 10.23.21
Video of 3/5/25, Board of Appeals Hearing , Appeal No. 25-001, Emberton vs. Zoning Administrator, subject property at 201 Ashton Avenue, appealing Planning's Notice of Violation predicated on denial of mandated Variance.	Meeting Minutes . Appellant's and Respondent's Briefs .  Exhibit BG Appellant's slide deck for 3.5.2024

SF Abatement Appeals Board Proceedings

Appeal	Document
Video of 8/21/24 Abatement Appeals Board Hearing , CASE NO. 6925: 201 ASHTON Ave. - Complaint # 201703961: Appellant appeals Order of Abatement and assessment of costs. LACK OF JURISDICTION TO EVALUATE THE CONSTITUTIONALITY OF SEARCHES AND THE LAWFULNESS OF VIOLATION NOTICES 0:19:53 President Evita Chavez: "Before we get started, I do want to make sure we're understanding what the discretion and jurisdiction of the Board are for today is. So we're looking specifically at whether or not there was a permit for this work. That's what the Notice of Violation originally was, that this was an unpermitted building? I'm asking whoever can answer." Matthew Grene, Secretary to the Board: "That's correct. The Notice of Violation was they built the fence at the front without a permit that is required and there is still no permit as of today. I guess you're determining whether the Order of Abatement was issued properly." Commissioner Alysabeth Alexander Tut: "To build on that I just want to ask some questions about what we're not hearing today? Maybe I'll ask the negative and then if you confirm then I'll understand. There's the the Appellant brought up an issue of no notification because the 15-day notice but this is, we're not, there's not a challenge of jurisdiction here? We're hearing the case, correct?"	Meeting Minutes . DBI Staff Report and Appellant Statement .  Exhibit KK Appellants slide deck and transcr

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Appeal	Document
Unknown AAB Member: “Yup. There’s ya, there’s not a jurisdiction.” Commissioner Alysabeth Alexander Tut: “So, and then the question of the easement is not before us today? Is that correct?” Matthew Grene, Secretary to the Board: “That’s correct.” Commissioner Alysabeth Alexander Tut: “Thank you. And then the question about the access to the streetlight is not before us today? Is that correct?” Matthew Grene, Secretary to the Board: “That’s correct.” Commissioner Alysabeth Alexander Tut: “Ok, we’re just talking about the fence and the permit. The facts. Is there a permit, was there, was it, was this issued properly.” Matthew Grene, Secretary to the Board: “Those issues you mentioned might come up at the permit approval process.” Commissioner Alysabeth Alexander Tut: “Correct, but that’s those questions as individual questions are not before us today.” Matthew Grene, Secretary to the Board: “That is correct.” Commissioner Alysabeth Alexander Tut: “Thank you.” 0:24:21 Commissioner Angie Sommer: “Sure but we are only, we were just told, we are only talking about, and for better or worse I don’t know if it’s more or less helpful or confusing, but we are isolating the issue to what is in our purview, right? Which is does the fence need a permit, did it have a permit, no. So it sounds like yes, it did need a permit because it is taller than the 3 feet and no it did not have a permit. Yes there’s been stuff happening since then but that’s what you’re saying?” Matthew Grene, Secretary to the Board: “Yes, that’s the jist of the case.” 0:29:14 Commissioner Kavin Williams: “I think an issue we have is like a lot of this we don’t have jurisdiction over. We have, like this, we’re just a Building Inspection Commission. We can’t we can’t send an order to Superior Court and say you have to hear this. We don’t have that kind of jurisdiction at all.”	

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Ingleside Terraces photographs *circa* 1912-1915 from SF Public Library History Center

Image 1



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Image 2



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Image 3



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Image 4



Statement of Code Enforcement case at 201 Ashton Ave. to be included in the public record for Public Hearing on May 19, 2026, with SF Board of Supervisors.

Image 5



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Image 6

