

From: [Thomas Schuttish](#)
To: [Carroll, John \(BOS\)](#); [Melgar, Myrna \(BOS\)](#); [Peskin, Aaron \(BOS\)](#); [Preston, Dean \(BOS\)](#)
Cc: [Farrah, Michael \(BOS\)](#); [Fieber, Jennifer \(BOS\)](#); [Angulo, Sunny \(BOS\)](#); [Souza, Sarah \(BOS\)](#); [PrestonStaff \(BOS\)](#)
Subject: LUT March 4th Item No. 2 Board File No. 231185[Planning, Administrative Codes - Conditional Use Authorization for Removal of Unauthorized Unit]
Date: Friday, March 1, 2024 3:27:41 PM
Attachments: [UDU REMOVAL LEG.pdf](#)
[Memo to M. Melgar.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Chair Melgar, President Peskin, Supervisor Preston and Mr. Carroll:

Attached are two pdfs.

One pdf is an example of a UDU that could have been protected by this legislation because a long term tenant apparently lived in the UDU. The tenant was apparently bought out. The structure no longer has a UDU which was legally removed in 2016 with a permit. From the plans viewed at DBI Records this UDU was separately accessed through a side (tradesman-style) passageway and from the layout seemed very livable. It looked like the ADUs that the City and State are trying to promote. This is a confounding issue as the City tries to create housing without losing units, meeting the goal of 36,000 units, 20,000 of which need to be affordable. Most people agree that existing UDUs can provide more affordable tenant housing.

The recent release of [Affordable Housing Leadership Council](#) report doesn't specifically mention UDUs but it does specifically discuss preservation.

The details of this particular project with the UDU (which also has issues with the Section 317 Demo Calc values) suggests that there should also be some sort of criteria for length of ownership to receive a waiver from the CUA as suggested in the memo below. The timeline of this project in the first pdf is as follows: *Sold (twice) in 2014, Site Permit issued in 2016 and CFC issued in 2020. (Since the CFC there was a sale in 2020, in 2021 and again in 2024).* All of this is shown in the first pdf.

The other pdf is the memo sent to the Planning Commission and Chair Melgar when this legislation was reviewed by the Staff and Commission. In the memo I suggested that in addition to the three year requirement post waiver of the CUA, there should be an "and" requiring pre-waiver ownership of at least two years in order to receive the waiver. Given the example of "ownership" in the first pdf lasting six years for this speculative project, a two year requirement seems reasonable.

The other point in the memo was about kitchens. As explained in the memo if there is an existing kitchen in the UDU at the time of seeking the waiver, it should not be removed.

As stated in the memo the rent controlled provision in the legislation is great.

Thank you.
Sincerely,

Georgia Schuttish

To: Supervisor Myrna Melgar
From: Georgia Schuttish
Cc: Michael Farrah, Veronica Flores, Aaron Starr and Jennifer Fieber
Re: Board File No. 231185 (CUAs for Removal of UDUs)
Date: January 12, 2024

Dear Supervisor Melgar:

Thanks for this legislation and thanks to the Planning Staff for their summary.

I didn't know about this legislation until I read the Advance Calendar the other day. Prior to last week's Planning Commission meeting, I submitted three emails to the Commission with examples of UDUs in speculative projects. My main points with the three examples was to make sure that all available information (Google Earth, real estate web ads, past permits, etc) was part of the Staff's research in making sure there was no UDU during the Screening required under Section 317 (b) (13) and the tenancy/occupancy issues if there was a UDU.

I understand what the intent is and and I can see the enormous value in this legislation. It makes sense for many families/property owners. But I have two suggestions:

1. If a UDU seeking the waiver has a kitchen, the kitchen **cannot** be removed.
2. That in addition to allowing the waiver "***only where the owner resides in the primary dwelling unit at the time of application to remove the UDU and intends to remain in the primary dwelling unit for at least three years after removal of the UDU is approved***", there should also be an "**and**" clause with the residence requirement of "X" years that the property was owned by the owner prior to the application. The "X" number of years should be more than

one year, but at least one year. Two years seems reasonable. This would protect and preserve the UDU from speculative development or flipping.

Here is why:

#1 It is understandable if a UDU is just a bedroom and a bath that a property owner would think they were just buying a SFH with some “rooms down”. But if there is a kitchen in this space that should raise a red flag. I would hope that new property owners had a reputable agent and/or a complete disclosure form and/or an inspection that would alert them to the fact of the UDU. However, I think it has been the general practice that in the rare instances that the Commission has allowed the merger of two units, **the property owner is required to maintain the kitchen in the second unit.** (i.e. I think there was one like this up on Nob Hill merging two condos when the Supervisor was on the Commission). The point was that retaining the kitchen would give the option of separating the units at a later date. This would be the same with a UDU that had a kitchen. The *future housing opportunity* of the UDU as separate and independent and rent controlled housing should be considered for protection and preservation.

#2. The three projects in the emails that I sent to the Commission all took out the Alteration Permits within a few months of the purchase of the property. Two of the three re-sold the the properties immediately upon completion. The third has not yet received the CFC. (I forwarded the email on this third project to Ms. Fieber.). **Without some period of ownership prior to the waiver, a project sponsor could hypothetically say they reside there even if they purchased the property a few months ago. I know that there is a requirement that they live there for at least three years after the waiver, but this suggestion is just to plug up any potential cracks with speculative development or flipping.**

CONCLUSION

The Staff Report said on page 2, that 112 Clipper Street would benefit from this Ordinance. Attached are two web ads from the time of sale in January 2020. For any prospective owner it seems to me that it was quite clear that there was a UDU on the property. Certainly by 2020 when this property sold for over \$2 million, the whole issue of UDUs as housing that needed to be preserved and legalized was on everyone's radar. I am not trying to point fingers at this particular property owner. But information is available and if an owner is spending over \$2 million to buy a house they shouldn't be an "unsuspecting buyer". Even if they are spending over \$1 million this is still true.

But rather what I want to point out is that getting a waiver seems like a privilege that should be granted to the property owners that the legislation is intended for...***large, multi-generational, extended families***...and that the waiver shouldn't be for what may turn out to be a speculative project that ultimately is a negative for the City's housing stock. As written in the Findings for this legislation: ***"The General Plan recognizes that existing housing is the greatest stock of rental and financially accessible residential units, and is a resource in need of protection"***.

I think the rent control provision is great.

Thank you.

Sincerely,

Georgia Schuttish

Attachments on pages 4 and 5 from two separate real estate ads

112 CLIPPER STREET

SAN FRANCISCO, CALIFORNIA



PROPERTY SQF INFORMATION

| LIVING SPACE | |
|-----------------|-------------|
| Square Footage: | 2962 Sq Ft* |
| * Upper Level | 800 |
| * Main Level | 1066 |
| * Lower Level | 1096 |

PREPARED BY GREER HOME PHOTOGRAPHY
 ALL MEASUREMENTS ARE APPROXIMATE. SQUARE FOOTAGE IS FOR INFORMATION ONLY.
 SQUARE FOOTAGE DOES NOT INCLUDE COMMON AREAS OR UNFINISHED AREAS.
 REGARDING ANY DISCREPANCIES BETWEEN THIS FLOOR PLAN AND THE ACTUAL PROPERTY.

112 CLIPPER STREET
SAN FRANCISCO, CALIFORNIA



PROPERTY SQF INFORMATION

| | |
|------------------------|--------------------|
| LIVING SPACE | 2962 Sq Ft* |
| Square Footage: | |
| * Upper Level | 800 |
| * Main Level | 1066 |
| * Lower Level | 1096 |



Rachel Swann

112 Clipper Street

\$2,207,000

| 112 Clipper Street, San Francisco, CA 94114

FIXER alert, bring contractors and cosmetic visionaries - Welcome to 112 Clipper Street. Make it Your Life. Your Home. Your Way. In Your location. This is an opportunity to renovate a massive home on a flat lot near everything Noe Valley and a short jaunt to the Mission. Room to expand if you want bigger? Possibly, both neighbors went back, buyers to investigate. For the ones that love Noe Valley but don't love steep hills, for the visionary who desires the accessibility of public transportation but doesn't want the train tracks in front of their abode, for those that seek urban living with bucolic charm, for the dreamer who wants the exquisite opportunity to own and customize a large home, we present to you 112 Clipper. Add all of the modern touches to this home OR explore going bigger? Yes, yes, yes and allow your mind to wander and your dreams to come true.

[- Show Less](#)



EXHIBIT E

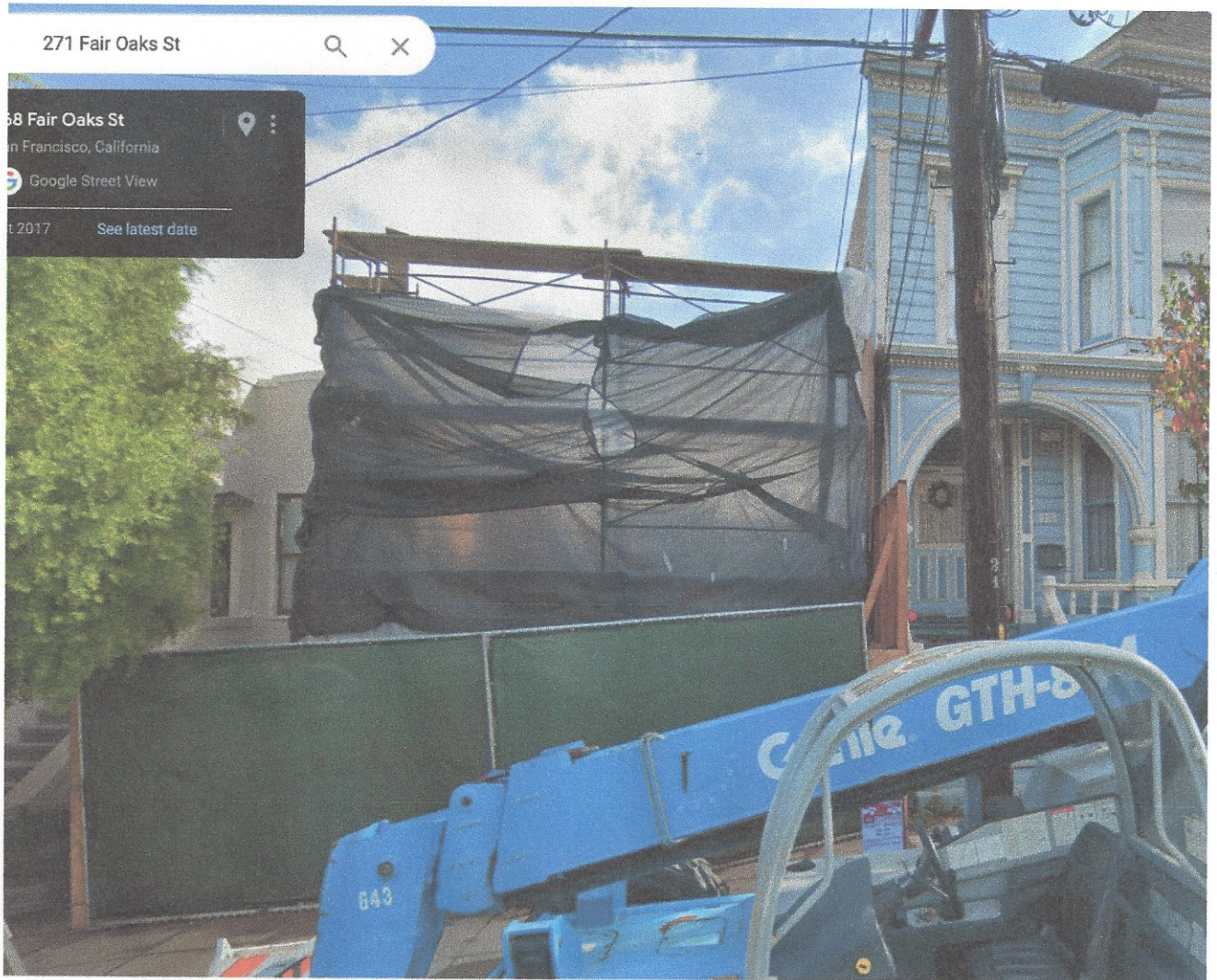
271 FAIR OAKS STREET

Original A-Rated House at 271 Fair Oaks Street prior to Alteration. Note door to the right of the garage with “Welcome” sign and includes mail slot on enlarged photo of this door with address of 273 Fair Oaks Street on page 22.



Photos during work and of completed project at 271 Fair Oaks Street on pages 23-24.

Copied Demo Calc Matrix from plans with DBI Records on pages 25-26.



Site Permit was issued October, 2016
CFC Issued February, 2020



SALES HISTORY FOR 271 FAIR OAKS STREET ON PAGE 29.

(Apparently three sales since CFC issued in February, 2020)

271 FAIROAKS STREET

PLANS DATED 7/9/16

| ELEVATION | EXISTING | DENOLISH | PERCENT |
|-----------|------------------------|------------------------|---------|
| NORTH | 1,427 ^{sq} FT | 233 ^{sq} FT | |
| SOUTH | 1,399 ^{sq} FT | 319 ^{sq} FT | |
| EAST | 727 ^{sq} FT | 727 ^{sq} FT | |
| WEST | 691 ^{sq} FT | 691 ^{sq} FT | |
| TOTAL | 4,194 ^{sq} FT | 1,960 ^{sq} FT | 47% |

52% DEMOLITION VERTICAL ELEMENTS

| FLOOR | EXISTING | DENOLISH | |
|-----------|------------------------|------------------------|-----|
| 1ST FLOOR | 1,136 ^{sq} FT | 0 ^{sq} FT | |
| ROOF | 1,136 ^{sq} FT | 1,136 ^{sq} FT | |
| TOTAL | 2,272 ^{sq} FT | 1,136 ^{sq} FT | 50% |

50% DEMOLITION HORIZONTAL ELEMENTS

271 FAIR OAKS PLANS 7/9/16

| ELEVATION | EXISTING | DENOLISH | TOTAL |
|-----------|----------|----------|-------|
| NORTH | 52 LF | 4 LF | |
| SOUTH | 52 LF | 11.75 LF | |
| EAST | 25 LF | 25 LF | |
| WEST | 25 LF | 25 LF | |
| TOTAL | 154 LF | 66.5 LF | 43% |

43% DEMOLITION PERIMETER
ELEMENTS AS TAKEN FROM
FOUNDATION

From Request for Discretionary Review of 271 Fair Oaks Street that was withdrawn prior to Commission hearing

in the yard and deprives us of the enjoyment of that feature. The downstairs neighbors would also experience a decrease in the natural light and warmth. Solution: Remove uppermost (4th) story from plans.

5. The additional floor is inconsistent with the neighborhood wherein no other single family home features a 4th story. The additional of this unnecessary floor also blocks city views from our neighbors across the road. The additional level is an over-improvement and could easily be removed from the plans without difficulty. Solution: Remove uppermost story from plans.
6. The design of the proposed single family home is not in keeping with the look of the adjacent and nearby properties. The design of the proposed home is widely disliked by a vast majority of the neighbors. Even those neighbors who like modern design have told the owner that they do not like the design of this property. The owner has not taken any suggestions made by the neighborhood in regard to design or any aspect of this building. Solution: Alter façade to more accurately fit into neighborhood designs.

The design of the property appears to allow for the possibility of an illegal in-law unit. This is especially egregious as a long-term tenant was forced out of the legal second unit in order for the owner to convert it into one unit. The plans for the new home show a "Storage/Utility Room". This does not appear to be merely a utility as evidenced by the window, street access doorway, and a bathroom. There is an area which is partially walled off, however, a door can easily be installed thereby giving access to the entire ground floor level. If the owner is trying to get around the city's tenant's right codes in order to serve his own needs, then this is a problem for the city government, law enforcement, and the people who live on this street. Solution: Deny any rights or conversion and monitor plans. Make property size more in keeping with standard square footage.

8. The proposed single family home features a one-car garage. Because parking is scarce, add a side-by-side parking garage into plans. This is preferable over tandem parking due to the inherit complications for moving one car out to get to another. Also, tandem parking encourages homeowners to park only one car in the garage and the other on the street. The net result is that it is more convenient to park on the street, taking up the very scarce parking. Solution: Remove utility room and add additional parking space. The property and street could benefit from side-by side parking. This will reduce the impact of parking in the neighborhood.
9. The owner has no intention of living on the property. It is ultimately going to be flipped and resold. As such, the owner has little interest in working with the people who live on this street. The desires of the inhabitants of Fair Oaks street should be given ample weight in buildings that can alter the look or feel of the street. To do otherwise gives the speculators an undeserved

From Jurisdiction Request to Board of Appeals regarding UDU. This was withdrawn prior to the hearing. Based on this document and the withdrawn DR from an adjacent neighbor, the UDU was there and had been occupied for many years. From the layout shown on the plans in DBI Records to remove this UDU it looked comparable to the ADUs being approved currently by the City and encouraged by the State.

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BOARD OF APPEALS
OCT 02 2014
~~APPEAL~~ - JR

FILE

Attorneys for Petitioner JOHN ROMAN

Re: BPA No. 2014-08-18-4044

CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS

JURISDICTION REQUEST

Subject Property: 271 Fair Oaks Street Permit Issued: August 18, 2014

I. INTRODUCTION

John Roman has rented the lower-level in-law unit located at 271 Fair Oaks Street for fifteen years. (See Exhibit A, Declaration of John Roman.) John's home was recently sold last. (See Exhibit B, Declaration of Monique Farris.) Prior to the sale, John was offered \$75,000 to move. (See Exhibit A.) John declined the offer. (See Exhibit A.) Two weeks later, the owner again tried to convince John to move, this time offering him \$100,000. (See Exhibit A.) Again, John rejected the offer. (See Exhibit A.)

On August 12, 2014, John received a notice from the owner's agent stating that the owner intended to apply for a permit to demolish John's home based on a claim that the in-law unit is an illegal unit. (See Exhibit A.) John was shocked, as the in-law unit is in fact a legal unit and has been used as a dwelling for at least sixty-five years. (See Exhibit A)

On August 23, 2014, John hired an attorney to represent John in challenging any attempt by John's landlord to demolish John's home. (See Exhibit A.) That same day, August 25, 2014, John's attorney was told by the San Francisco Department of Building Inspection that no

1

4 bd | 5 ba | 3,741 sqft
 271 Fair Oaks St, San Francisco, CA 94110

Sold
\$5,750,000 Sold on 01/19/24 Zestimate®: **\$5,606,900**
 Est. refi payment: \$37,492/mo Refinance your loan

Home value Owner tools Home details Neighborhood details

| | | |
|--------------------------------|-----------------|-------------------------------------|
| 1/19/2024 | Sold | \$5,750,000 -4.1% \$1,537/sqft |
| Source: SFAR #423755862 Report | | |
| 11/3/2023 | Pending sale | \$5,995,000 \$1,603/sqft |
| Source: SFAR #423755862 Report | | |
| 9/5/2023 | Listed for sale | \$5,995,000 -9.5% \$1,603/sqft |
| Source: SFAR #423755862 Report | | |
| 4/19/2021 | Sold | \$6,625,000 +5.2% \$1,771/sqft |
| Source: Public Record Report | | |
| 3/20/2020 | Sold | \$6,300,000 +281.8% \$1,684/sqft |
| Source: SFAR #497166 Report | | |
| 7/23/2014 | Sold | \$1,650,000 +1988.6% \$441/sqft |

There was a sale two weeks earlier in July 2014 based on Redfin Sales History Info as shown below. These sales aligns with the SFPIM for the Assessor's Info further illustrating the volatile sales history.

| | | |
|--------------|-----------------------|------------------------|
| Jul 10, 2014 | Sold (Public Records) | \$1,280,000 (12.1%/yr) |
| Date | Public Records | Price |