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**Cc:** [dratlerj@gmail.com](mailto:dratlerj@gmail.com)  
**Subject:** Add to File No. 210728: Illegal construction occurs in SF because of weaknesses in the current DBI Building Inspection process  
**Date:** Wednesday, August 25, 2021 12:48:00 PM

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**Sent:** Tuesday, August 24, 2021 2:01 PM  
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**Subject:** Illegal construction occurs in SF because of weaknesses in the current DBI Building Inspection process

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**To:** Supervisors Melgar, Peskin, Preston

**From:** Jerry Dratler

**Cc:** Supervisor Ronen, Ms. Beinart

**Subject:** Illegal construction occurs in SF because of weaknesses in the current DBI Building Inspection process

**Date:** August 23, 2021

I am writing to you to provide input into the hearing on 2867 San Bruno Avenue scheduled for September 2021. This project is illustrative of the illegal construction that occurs in San Francisco because of the weaknesses in the current DBI

building inspection process. Numerous other examples exist. I am bringing two additional projects to your attention.

Based on the facts presented below, I recommend that an independent forensic structural engineering firm be engaged by the City to review the processes used and actions not taken in the examples I provide. I am happy to meet with you or your staff to discuss my findings and recommendations in preparation for the hearing.

### **DBI Inspection Process**

The San Francisco Department of Building Inspection (DBI) is the regulatory agency responsible for overseeing the building, plumbing, electrical and disability access codes for commercial and residential buildings in San Francisco. The purpose of building inspections is to verify the job has been completed according to the scope of work and plans authorized by the building permit.

Each building permit with architectural plans is required to receive three independent approvals from three different inspection entities: 1) The SF DBI District Building Inspector, 2) the project structural engineer and 3) the responsible structural engineer of an independent inspection service. The reports issued by both structural engineers confirm the structure was built according to the local building code and consistent with the city approved architectural plans. As an example, the services performed by Norcon, LLC, one of 51 DBI approved special inspection services, are listed on page 7.

The three independent inspections are supplemented by a citizen complaint process. Citizens can file complaints about illegal construction with both DBI and the Planning Department. Both departments are required to investigate citizen complaints of illegal construction. When an investigation determines there has been illegal construction, DBI issues a Notice of Violation (NOV), and the Planning

Department issues a Notice of Enforcement (NOE).

When known illegal construction is not detected, one or more of the three independent review processes failed and the Planning Department or DBI may have failed to properly manage an illegal construction complaint.

### **The Case of 2867 San Bruno Avenue**

We should not attribute the city's failure to detect the construction of 20 illegal housing units at 2867 San Bruno Avenue entirely on the actions of former Sr. Building Inspector Bernie Curran. Why would DBI have approved 25 separate addresses for a project with 10 approved units of housing? A June 14, 2021, Mission Local article reported that the only recorded inspections for the project were a start work inspection on March 2014, a rebar inspection in July of 2014 and a final inspection 907 days later in January of 2017. It is likely the project structural engineer and the structural engineer of the independent inspection service failed to do their jobs.

Determining the root cause of DBI's failure to uncover the illegal construction at San Bruno Avenue requires a comprehensive understanding of the California Building Code and the California Professional Engineering Code. **I strongly recommend the city retain a forensic structural engineering firm to perform a comprehensive review of the project at 2867 San Bruno Avenue.**

DBI senior management knew Bernie Curran often performed inspections outside of his district, and he should not have been allowed to sign off on the San Bruno building permit. The criminal complaint filed by the FBI on Friday, August 20, 2021, documents two serious weaknesses in DBI's building permit inspection process:

1. As early as April 2014 DBI officials were aware Bernie Curran often performed inspections outside of his district and this caused problems with the inspector assigned to

the district. DBI attempted to address this problem by creating an assignment flow chart for how inspections should be reassigned if the district inspector is unavailable.

2. The FBI alleges Bernie Curran performed inspections on 12 properties that were not in his district and in at least two instances gave final inspection approval on permits where the work necessary to comply with the permit was not completed. All of the projects in the criminal complaint were overseen by structural engineer and former Building Inspection Commission President, Rodrigo Santos.

### **San Bruno Avenue is not an isolated example**

A brief review of two other projects where DBI and independent inspection services failed to uncover illegal construction illustrates that San Bruno Avenue is not an isolated instance. The illegal construction at each of these projects was undetected for very different reasons.

1. **3847 18<sup>th</sup> Street** - There were 16 building code violations at 3847 18<sup>th</sup> Street. The developer offered to donate \$250,000 to the city if the Planning Commission would abate the violations. Senior Building Inspector Bernie Curran conducted the final inspection and issued the Certificate of Compliance on seven building permits on the same day, October 11, 2017. The building permits should have been approved by the district building inspector.

Three John Pollard-owned companies performed the construction, structural engineering, and the independent inspection services for the 18<sup>th</sup> Street project, a clear conflict of interest. Mr. Pollard controls SF Garage, Mercury Engineering and A1 Inspection Services.

Harold Howell, an employee of Mr. Pollard, issued both structural inspection reports. He was the Mercury Engineering project structural engineer and the

supervising structural engineer for A1 Inspection Services. He in essence was inspecting himself.

<image001.jpg>

Four DBI inspectors review all inspection reports that are submitted to DBI and should have realized Mr. Howell was approving his own work. Inspection reports are supposed to be randomly assigned to the four DBI inspectors for review. I found that the SF Garage reports are not randomly assigned for review. In fact, 76% of the 201 completed SF Garage inspection reports were performed by a single DBI inspector.

Mr. Howell's civil engineering license was revoked, and the revocation was stayed in 2016 for deficient work on another SF Garage project (2650-52 Hyde Street). Mr. Howell was placed on probation for a three year period that ended in May of 2019. Mr. Howell was also required to successfully complete and pass the California Laws and Board Rules examination and an approved course in professional ethics. Mr. Howell was on probation when he issued the A1 Inspection reports for 18<sup>th</sup> Street.

The CEO, CFO and Corporate Secretary of A1 Inspection Services is Annabel McClellan. In 2011 Ms. McClellan was found guilty of insider trading and received an 11 month federal prison sentence and a \$1 million fine to settle a civil suit by the SEC.

A1 Inspection Services was dissolved in 2020. Three A1 Inspection Services employees on the A1 Inspection Services organization chart, Collin Miller, Gaetano Basso and Steve Ormando established their own inspection services company in 2017, Norcon, LLC. Norcon, LLC appears to be the successor to A1 Inspection Services with a different supervising structural engineer.

**An independent forensic structural engineer should review DBI's oversight of the 51 independent**

**inspection services approved by DBI and the quality of the inspections performed by A1 Inspection Services and Norcon, LLC.** The forensic review would allow DBI to determine the amount of reliance DBI can place on the reports issued by the two inspection services.

2. **846 34<sup>th</sup> Avenue** - DBI building inspectors inspect the construction work over the life of a project by inspecting the concrete pour, framing etc. The district inspector's role is to ensure the construction work is building code compliant and compliant with the city approved plans. District inspectors have a very heavy workload. They are expected to perform as many as ten inspections daily. DBI inspectors pre-schedule their inspections to ensure relevant plan documents and personnel are available at the jobsite at the scheduled inspection appointment. At the completion of the permitted construction work, the building inspector approves or rejects the project. If the project is code and plan compliant, the DBI inspector issues a Certificate of Final Completion (CFC).

The district building inspector for the remodel at 846 34<sup>th</sup> Avenue signed off on 13 unscheduled building inspections. The neighbor at 850 34<sup>th</sup> Avenue filed complaints with the Planning Department and DBI for construction of a house 3 feet taller than the approved plans and construction of illegal 2<sup>nd</sup> and 3<sup>rd</sup> floor rear decks. The Planning Department issued NOEs for both violations. DBI did not issue a single NOV.

The project structural engineer for 34<sup>th</sup> Avenue is Rodrigo Santos and this project like some of Mr. Santos's other projects has a second set of plans developed and submitted after issuance of the building permit. Mr. Santos was able to get DBI to approve a building permit addendum with a second set of plans. However, DBI did not route the building permit

addendum and plans to the Planning Department for its approval.

When the Planning Department learned of the building permit addendum through the complaint process, the Planning Department requested DBI to suspend the building permit. DBI removed the building permit suspension 11 days after it was issued, and the Planning Department closed the NOE for the taller than permitted house 14 days after it was issued. The Planning Department abated the NOE for the two illegal rear decks 224 days after the NOE was issued. No apparent justification documents these decisions.

Four questions need to be asked and answered on this project 1) why did the Planning Department fail to approve the building permit addendum and plans after it allowed DBI to remove the building permit suspension 2) Why did Norcon, LLC acting as the independent inspection service fail to detect and report the illegal construction 3) why did project structural engineer Rodrigo Santos fail to detect and report the illegal construction and 4) why did DBI fail to issue a single NOV for the illegal construction?

I have attached a more comprehensive review of the project at 846 34<sup>th</sup> Avenue that includes pictures of the illegal work. **Again, an independent review by a forensic structural engineer is warranted in this case.**

<image002.jpg>