

December 4, 2017

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CODE, SECTION 31.16(b)(5)**
(Note: Pursuant to California Government Code, Section
86500(b)(2), information received at, or prior to, the public
hearing will be included as part of the official file.)

Hon. London Breed, President
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: 218-27th Avenue CEQA and Conditional Use Appeal
Board File No. 171222
Hearing Date: December 12, 2017

Dear President Breed and Supervisors:

I am writing to respond to one assertion in the Appellants' brief of December 1, 2017. In their brief, Appellants suggest that the existing single-family home that the Project will demolish and replace with a triplex is subject to the City's Residential Rent Stabilization and Arbitration Ordinance. Appellants assert, therefore, that the Planning Commission's finding that demolition is consistent with the criteria set forth in Planning Code Section 317(g)(5)(E) and (F)¹ disfavoring demolition of rent controlled units and their replacement with ownership units, cannot be made.

Although the Planning Department's staff report was not as clear as it could have been, there is no doubt that, by operation of law and the facts of this case, the existing home is not subject to rent control. First, the facts. The Toboni Group purchased the existing house in 2015 from the estate of Firmin Elissetche, who died in 2015. Mr Elissetche, a widower, lived in the house by himself when he passed, and the house has been vacant since then. Thus, the property was owner occupied prior to its purchase and there were and are now no tenants, as the staff report confirms.

Second, both state and local law exempt single-family homes from rent control:

* California Civil Code Section 1954.52 (the Costa-Hawkins Act) forbids cities from imposing rent control on single-family homes.²

¹ Planning Code Sec. 317(g)(5)(E): "whether the project converts rental housing to other forms of tenure or occupancy; (F) whether the project removes rental units subject to the Residential Rent Stabilization and Arbitration Ordinance or affordable housing."

² Cal. Civil Code Sec. 1954.52(a): "Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which any of the following is true: (3) (A) It is alienable separate from the title to any other dwelling unit or is a
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* Section 37.3 of the San Francisco Administrative Code (the Rent Stabilization and Arbitration Ordinance) provides the same exemption from rent control as the Costa-Hawkins Act.³

Therefore, the Planning Commission did not abuse its discretion in finding that the proposed demolition does not remove a rent controlled unit from the housing stock or convert a rental unit to ownership housing.

Sincerely,



Steven L. Vettel

cc: Robia S. Crisp, Appellants' attorney
Joe Toboni
Joey Toboni
Michael Leavitt Architects
Planning Department

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subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code.”

³ S.F. Admin. Code Sec. 37.3(d): “Consistent with the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50. *et seq.*) and regardless of whether otherwise provided under Chapter 37: (1)(A) An owner or residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit which is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code.”