

# REUBEN, JUNIUS & ROSE, LLP

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December 8, 2014

**Delivered by Hand**

Ms. Angela Calvillo  
Clerk of the Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

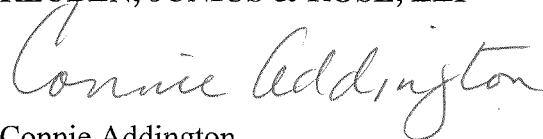
**Re: Appeal of Tentative Map for 3032 – 3038 Clement Street  
Board of Supervisors File No. 141248  
Our File No.: 7991.01**

Dear Ms. Calvillo:

At the request of Mark Loper, enclosed please find 15 copies of our letter brief in connection with the above-referenced appeal. Should you have any questions or require any additional information, please contact Mr. Loper direct at 415-567-9000 or via e-mail at [mloper@reubenlaw.com](mailto:mloper@reubenlaw.com). Thank you.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



Connie Addington  
For Mark H. Loper

Enclosures

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin  
Sheryl Reuben<sup>1</sup> | David Silverman | Thomas Tunny | Jay F. Drake | John Kevin  
Lindsay M. Petrone | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Jared Eigerman<sup>2,3</sup> | John McInerney III<sup>2</sup>

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

One Bush Street, Suite 600  
San Francisco, CA 94104

tel: 415-567-9000  
fax: 415-399-9480

[www.reubenlaw.com](http://www.reubenlaw.com)

# REUBEN, JUNIUS & ROSE, LLP

December 8, 2014

## By Hand Delivery

President Katy Tang  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlet Place  
San Francisco, CA 94102

**Re: Appeal of Tentative Map: 3032 – 3038 Clement Street  
Board of Supervisors File No. 141248  
Our File No.: 7991.01**

Dear President Tang and Honorable Members:

This office represents 3838 Clement LLC, the sponsor of an approved project to construct a four-story residential building above ground-floor retail (the “Project”) at 3032-3038 Clement Street in the Outer Richmond (the “Site”). The Project—which would add six family-sized units over a modest retail space fronting Clement Street—was approved by the Planning Commission more than nine months ago. Demolition at the Site already occurred, and the Project’s construction permit has been issued. Before this Board is an appeal of a tentative subdivision map at the Site. The tentative map has been reviewed and approved by all relevant City departments. We respectfully request the appeal be denied.

### **A. Background: Project Authorization, then Tentative Map Approval.**

After public notice, the Project was unanimously approved by the Planning Commission in February of this year, with no neighborhood opposition and eight neighbors in support. Appellant was mailed a notice of the Planning Commission hearing, but did not oppose it. The Project sponsor properly posted notice of the hearing at the Site. No appeals were filed for either of the Project’s entitlements.<sup>1</sup> After the Project’s unanimous approval, Project sponsor initiated the subdivision process, with the intent to offer the Project’s six (6) family-sized units for sale. The City and County Surveyor and the Planning Department’s Zoning Administrator each determined that the Project’s tentative map met all applicable legal standards, and the Department of Public Works approved the tentative map on November 20, 2014. The Department of Public Works’ decision to grant a tentative map is directly appealable to the Board of Supervisors.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin  
Sheryl Reuben<sup>1</sup> | David Silverman | Thomas Tunny | Jay F. Drake | John Kevin  
Lindsay M. Petrone | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Jared Eigerman<sup>2,3</sup> | John McInerney III<sup>2</sup>

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

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**B. Appellant Does Not Raise Any Issues Regarding the Tentative Map Approval.**

At issue before this Board is the propriety of the Department of Public Works' decision to approve a vesting tentative map that permits subdividing the approved four-story, six-unit building. Appellant's rationale for denying the tentative map relates to Project design, and not concerns about subdividing the building. These design issues were already identified, deliberated on, and resolved—first by Planning Department staff during the 18-month entitlement processing period<sup>2</sup>, and then by the Planning Commission at the Project's hearing.

Subdividing the Site will allow Project sponsor to offer the building's family-sized units for sale, each of which have two- or three-bedrooms, making the building ideal for families looking for a new home. Reversing DPW's approval of the tentative map would not affect the Project's underlying entitlements. The prior single-story building on the Site has been demolished, and a permit to construct the new building was issued in late October of this year.<sup>3</sup> The only practical effect of reversing the Department of Public Works' decision would be to deny ownership opportunities for families looking to either buy in or move to the Outer Richmond.

**C. Conclusion.**

Project sponsor began the approval process for this six-unit, four-story multifamily housing building in July 2012, more than two years ago. Since that time, it has worked diligently with neighbors, the Planning Department, and the Department of Public Works to design a building that addresses the City's lack of family-sized housing and complies with all applicable laws—including the Subdivision Map Act. This effort culminated in the Department of Public Works' tentative map approval last month. Appellant raises no issues as to why the six family-sized units cannot or should not be located on separate air parcels. We respectfully request that this Board uphold the Department of Public Works' decision.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



Mark Loper

One Bush Street, Suite 600  
San Francisco, CA 94104

tel: 415-567-9000  
fax: 415-399-9480

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[www.reubenlaw.com](http://www.reubenlaw.com)

President Tang and Supervisors

December 8, 2014

Page 3

cc:

Supervisor Eric Mar  
Supervisor Mark Farrell  
Supervisor London Breed  
Supervisor Jane Kim  
Supervisor Norman Yee  
Supervisor Scott Weiner  
Supervisor David Campos  
Supervisor Malia Cohen  
Supervisor John Avalos  
Angela Calvillo, Clerk of the Board  
Mohammad Nuru, Director, Public Works  
Jerry Sanguinetti, Public Works – Bureau of Street Use and Mapping  
Fuad Sweiss, Public Works – City Engineer  
Bruce Storrs, Public Works – City and County Surveyor  
Scott Sanchez, Planning Department – Zoning Administrator  
Mary Woods, Planning Department  
Edward Shoikhet, 3838 Clement LLC

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<sup>1</sup> Conditional use was required to allow a development lot over 5,000 square feet pursuant to Planning Code Sections 121.1 and 710.11, and the Zoning Administrator granted a rear yard modification as permitted by Section 134(e).

<sup>2</sup> Project sponsor filed a Preliminary Project Assessment application on July 30, 2012, starting the entitlement process.

<sup>3</sup> See Building Permit Nos. 2012-11-09-3910 (demolition); 2012-11-09-3902 (new construction).