

File No. 101551

Committee Item No. _____

Board Item No. 29

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date January 4, 2011

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| ☐ | ☐ | Motion |
| ☐ | ☐ | Resolution |
| ☐ | ☐ | Ordinance |
| ☐ | ☐ | Legislative Digest |
| ☐ | ☐ | Budget Analyst Report |
| ☐ | ☐ | Legislative Analyst Report |
| ☐ | ☐ | Introduction Form (for hearings) |
| ☐ | ☒ | Department/Agency Cover Letter and/or Report |
| ☐ | ☐ | MOU |
| ☐ | ☐ | Grant Information Form |
| ☐ | ☐ | Grant Budget |
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| ☐ | ☐ | Contract/Agreement |
| ☐ | ☐ | Award Letter |
| ☐ | ☐ | Application |
| ☐ | ☒ | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|--------------------------|--------------------------|---|
| ☐ | ☐ | <u>Appeal of Tentative Parcel Map for 74-76 Castro Street</u> |
| ☐ | ☐ | _____ |
| ☐ | ☐ | _____ |

Completed by: Joy Lamug

Date December 23, 2010

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

76

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL jcdlawyer@jcdlaw.com

December 10, 2010

BY MESSENGER

Clerk
Board of Supervisors
City and County of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 DEC 10 PM 4:45
BY 

Re: Appeal of Tentative/Parcel Map re 74-76 Castro Street, San Francisco

Dear Madam Clerk:

I am the attorney for Martin Hyland, who lives at 74 Castro Street, San Francisco. I am authorized by my client to make this appeal on his behalf.

The owners of the property won the 2010 San Francisco condominium conversion lottery for my client's home. The County Surveyor has granted approval of the Tentative/Parcel Map for the above-described property.

My client is disabled. He has a diagnosis of HIV. Mr. Hyland is required to take a twice-a-day regimen of medications to stay alive. (Please see attached documentation.) He is claiming his right, pursuant to San Francisco Subdivision Code §1391, to a lifetime lease of his home, as set out in subdivision (3) of the above-referenced Code section. The property owners' attorney, Michael C. Hall, Esq., contends that my client is not disabled and is, therefore, subject to eviction, due to the proposed condominium conversion.

I contend that the appropriate definition of "disabled" for the purposes of San Francisco Subdivision Code §1391 is San Francisco Administrative Code §12A.3(a), California Government Code section 12926, or 42 U.S.C. 12102. My client is disabled under any of these definitions.

Mr. Hall has indicated to me that he disagrees with me regarding this issue. He has suggested that a far more draconian standard is appropriate: that to be considered "disabled" under San Francisco Subdivision Code §1391, a person must be eligible for federal Supplemental Security

Income (SSI). Mr. Hall makes this assertion without citation to any legal authority to support his position. His proposed standard would permit my client's eviction.

My client has gone to great lengths to get and keep his person in good shape; this is necessary due to the life-threatening nature of his disease. Being in good physical shape helps his body fight HIV. Were Mr. Hyland to allow himself to fall off his exercise schedule, he would be tempting death. Further, my client works as a masseur. The income that he derives from that occupation is enough to keep him financially afloat—but not if he were forced to move from his rent-controlled home.

Mr. Hyland is a long-term tenant in his home; the building owners want him out so that they can either rent the unit for more money or obtain a higher selling price for the building with his unit empty. My client has been subjected to years of harassment and illegal conduct by the building owners in the hopes of inducing him to move out. Now, the building owners are refusing to acknowledge his permanently disabled status to avoid giving him a lifetime lease, although they are by law required to do so.

In addition to the harm that his eviction would visit on my client, the City would also be harmed. In enacting the San Francisco Residential Rent Stabilization and Arbitration Ordinance (the Rent Ordinance) in 1979, the Board of Supervisors made a finding that,

(1) There is a shortage of decent, safe and sanitary housing in the City and County of San Francisco resulting in a critically low vacancy factor.

(2) Tenants displaced as a result of their inability to pay increased rents must relocate but as a result of such housing shortage are unable to find decent, safe and sanitary housing at affordable rent levels. Aware of the difficulty in finding decent housing, some tenants attempt to pay requested rent increases, but as a consequence must expend less on other necessities of life. This situation has had a detrimental effect on substantial numbers of renters in the City, especially creating hardships on senior citizens, persons on fixed incomes and low and moderate income households.

...
San Francisco Rent Ordinance, Section 37.1(b)

Nor has that situation abated in the past 31 years. As recently as January 2010, President Chiu was quoted by KGO-TV as saying that, "In a city like San Francisco which without affordable housing policies could very quickly become a city of the extremely wealthy."

The proposed conversion of Mr. Hyland's home to a condominium and his proposed eviction

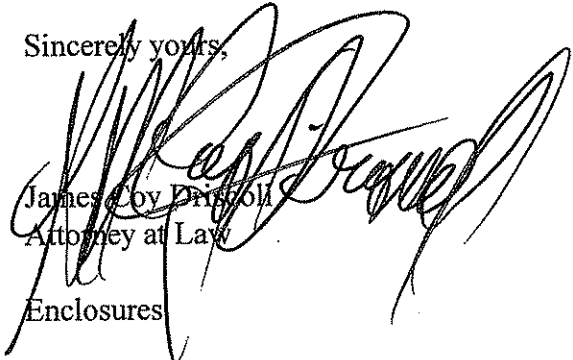
Clerk
Board of Supervisors
December 10, 2010
Page 3

Appeal of Tentative/Parcel Map
re 74-76 Castro Street, San Francisco

therefrom is exactly the type of problem the San Francisco Rent Ordinance was enacted to prevent: The eviction of people of moderate means to allow the wealthy to move in. The problem existed in 1979; it exists today. The condominium conversion process should not be used to exacerbate the problem.

The proposed condominium conversion violates San Francisco Subdivision Code §1386 in that 1) a permanently disabled person will be evicted and 2) an eviction will occur as part of the conversion process. In addition, the proposed condominium conversion accelerates the purge of working class people from the City, creating a ghetto of the wealthy. On behalf of my client, I request that the San Francisco Board of Supervisors to disapprove the Tentative/Parcel Map pursuant to San Francisco Subdivision Code §1386 and for the good of the City.

Sincerely yours,



James Coy Enns
Attorney at Law

Enclosures

cc: Department of Public Works, by U.S. mail, with enclosures
Michael C. Hall, Esq., attorney for property owners, by U.S. Mail, with enclosures



Department of Public Health

San Francisco General Hospital
Medical Center
1001 Potrero Avenue
San Francisco, CA 94110

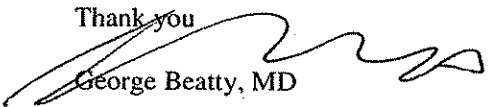
George Beatty, MD, MPH
995 Potrero Avenue
San Francisco, CA 94110

September 14, 2010

To Whom It May Concern:

Mr. Martin Hyland is under my care at the UCSF Positive Health Program at San Francisco General Hospital. I am writing to document that Mr. Hyland suffers from long-standing HIV infection and should be considered disabled from his disease. Maintenance of his health requires that he be as free from stress as possible, and that he comply with a complicated medication regimen. If he were uprooted from his long-standing stable housing arrangement, it would be detrimental to his overall health. Please take this into consideration.

Thank you


George Beatty, MD

City and County of San Francisco



Garin Newsom, Mayor
Edward D. Reiskin, Director
Fued S. Swales, PE, PLS,
City Engineer & Deputy Director of Engineering



Phone: (415) 554-5827
Fax: (415) 554-5324
www.sfdpw.org
[Subdivision Mapping.sfdpw.org](http://SubdivisionMapping.sfdpw.org)

Department of Public Works
Office of the City and County Surveyor
875 Stevenson Street, Room 410
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Date: November 30, 2010

Approval of Tentative/Parcel Map for		
Address	Block	Lot
74 - 76 CASTRO ST	2811	013

Dear Sir/Madam:

This is to advise you that based on our findings the County Surveyor has made his decision affirming the approval of the subject Tentative/Parcel Map.

The County Surveyor, together with the Planning Department and Department of Building Inspection have reviewed the application for conformity with the General Plan, and with the requirements of the Subdivision Map Act, the San Francisco Code and applicable regulations for the Tentative/Parcel Map for the creation of:

2 Unit Condominium Conversion

Subdivision Code Section 1314 provides that an appeal of the decision of the County Surveyor may be made to the Board of Supervisors located at 1 Dr. Carlton B. Goodlett Place, Room 244 (telephone number 554-5184).

Any such appeal must be filed in writing with the Clerk of the Board within ten (10) days of the date of this letter along with a check in the amount of \$280 made out to the Department of Public Works.

If you have any questions on this matter, please contact Bruce R. Storrs, County Surveyor, of this Department at 554-5827.

Sincerely,


Bruce R. Storrs, P.E., S.
City and County Surveyor

"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

Customer Service

Teamwork

Continuous Improvement

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

December 14, 2010

Edward Reiskin, Director
Department of Public Works
City Hall, Room 348
San Francisco, CA 94102

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10 DEC 15 PM 4:59
DEPT. PUBLIC WORKS
DIRECTOR'S OFFICE
R.R.

File Number 101551
Appeal of Tentative Parcel Map for 74-76 Castro Street
Lot No. 013 Assessor's Block No. 2611
2 Unit Condominium Conversion Project

Dear Director Reiskin:

The Office of the Clerk of the Board is in receipt of an appeal filed by James Coy Driscoll on behalf of Martin Hyland, from the decision of the Department of Public Works dated November 30, 2010, affirming the approval of a Tentative Parcel Map for a 2 unit condominium conversion project located at 74-76 Castro Street.

By copy of this letter, the City Engineer's Office is advised the Board of Supervisors will have the appeal scheduled for public hearing on Tuesday, January 4, 2011, at 4:00 p.m.

Pursuant to Subdivision Code Section 1315, enclosed is a filing fee of \$280.00 paid by the appellant for deposit to your Subdivision Fund.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board

c:
Barbara L. Moy, Manager, Department of Public Works-Bureau of Street Use and Mapping
Fuad Sweiss, City Engineer, Department of Public Works
Bruce Storrs, PLS, County Surveyor, Department of Public Works
Appellant, James Coy Driscoll, Attorney at Law, 2740 Van Ness Avenue, Suite 300, San Francisco, CA 94109
Property Owner, F. Eugene Fry/Steven H. Rascher, 76 Castro Street, San Francisco, CA 94114
Project Contact, Michael C. Hall, Attorney at Law, 605 Market Street, Suite 600, San Francisco, CA 94105
Scott Sanchez, Zoning Administrator, Planning Department
AnMarie Rodgers, Planning Department
Tara Sullivan, Planning Department
Cheryl Adams, Deputy City Attorney
John Malamut, Deputy City Attorney

[back to list](#)

generate letters for this project generate mylar request letter		☐ Notify DBI ☐ Notify SFRA		project id: 6175
Project Name:	2611 / 013 (2CC)	DPW Checker:	Robert Hanley	from condolottery db: LOTTERY WINNER 2010
Project Type:	2 Condo Conversion	Check Rec'd	\$9,336.00	
Survey Company: MARTIN M. RON & ASSOCIATES, INC.				from subdivision db: lottery winner YES - 2010 lottery bypass NO
Address #	Street Name	Block #	Lot #	
74-76	CASTRO ST	2611	013	

Current Stage: **Proposed Final Review** Current Phase: **Checkprint** Current Status: **Pending Applicant**

Invoice #

37607

New Cost:

9336

Void Invoice Reason

[Create Invoice](#)

[Void Invoice](#)

[Print Invoice](#)

Date Rec'd	Date to DCP	Date Rec'd from DCP	Date DPW Tent. Approval	Date Mylars Rec'd	Date Recorded
7/30/2010 10:57:34 AM	7/30/2010 4:12:45 PM	11/18/2010 12:26:39 PM	11/30/2010 2:29:02 PM		

Activity	Date Stamp	Comments	Status
Application Logged	7/30/2010 10:57:34 AM	Received application fees \$9086.00 (check #4455) and \$250.00 (check #4454). cc	Pending Completeness Review
Comment	7/30/2010 10:58:26 AM	PID 6175	Pending Completeness Review
Application Deemed Submittable	7/30/2010 4:12:34 PM	cc	Pending Completeness Review
Application Assigned	7/30/2010 4:12:39 PM	cc	Pending Completeness Review
Circulated to City Agencies / Neighborhood	7/30/2010 4:12:45 PM	To DCP, HRC, RB. cc	Pending City Agencies
Approved by HRC	8/4/2010 2:53:44 PM	cc	Pending City Agencies
Approved by Rent Board	8/13/2010 9:50:18 AM	ch	Pending City Agencies
Comment	8/24/2010 5:19:06 PM	request for information from tenant. ch	Pending City Agencies
Comment	9/8/2010 2:58:35 PM	Received letter from tenants attorney, documentation to follow. cc/ch	Pending City Agencies
Comment	9/17/2010 9:51:54 AM	Received documentation from tenants attorney. cc	Pending City Agencies
Comment	9/21/2010 10:07:33 AM	Received letter from owners attorney. cc	Pending City Agencies
Approved by DCP	11/18/2010 12:26:39 PM	ch	Pending Checker Review
Senior Tentative Map	11/30/2010		Pending Checker

Approval Granted	2:29:02 PM	ch	Review
Returned to Applicant	11/30/2010 2:43:33 PM	ch/cc	Pending Applicant
Comment	12/10/2010 4:44:03 PM	Received request for appeal. cc	Pending Applicant

Michael C. Hall
Francisco A. Gutierrez

M C HALL & ASSOCIATES
Attorneys and Counselors at Law
605 Market Street, Suite 900
San Francisco, CA 94105
Tel: (415) 512-9865
Fax: (415) 495-7204
mhalllaw.com

Of Counsel:
Andres Sanchez
Allison L. Wang

December 20, 2010

Ms. Angela Calvillo
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco CA 94102

Re: File Number 101551
Appeal of Tentative Parcel Map for 74-76 Castro Street
Lot No. 113 Assessor's Block No. 2611
2 Unit Condominium Project

Dear Ms. Calvillo:

This office represents the property owners Eugene Fry and Steven H. Rascher. This will serve as their response to the appeal filed by James Coy Driscoll on behalf of Martin Hyland.

Factual Background:

This appeal relates to the proposed condominium conversion of 74-76 Castro Street. Eugene Fry and Steven Rascher purchased the property in 1987 and have continuously thereafter resided at 74 Castro Street. Appellant Martin Hyland is the tenant in possession of 76 Castro under a tenancy agreement dated July 1998. His current monthly rent is \$2792.76.

The property owners won the 2010 condominium conversion lottery, after seven annual attempts. They submitted their application for condominium conversion to the Department of Public Works Division of Street Use and Mapping on July 30, 2010. The application was circulated to city agencies and thereafter approved by the Human Rights Commission on August 4, 2010 and by the Rent Board on August 13, 2010.

On August 9, 2010, attorney James Coy Driscoll, on behalf of Martin Hyland, filed an objection to the proposed conversion with the Planning Department pursuant to Subdivision Code §1386 based upon his contention that a disabled person would be evicted and an eviction would occur as part of the conversion process. At the same

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BY _____ AK

time, Mr. Driscoll asserted his client's right to claim a "lifetime lease" Subdivision Code §1391 (Copy enclosed).

The owners responded to the Planning Department and DPW. The owners contended that there was no basis to deny approval of the tentative map pursuant to §1386 because there have been no evictions, displacements, discrimination, or excessive rent increases for the purpose of preparing the building for conversion. The owners argued further that Mr. Hyland's claim for a lifetime lease was premature in that Subdivision Code §1391 grants such rights only after conversion has been completed. (Copy enclosed).

There was discussion between the parties concerning Mr. Hyland's alleged disability status. The owners were surprised to learn that Mr. Hyland claims to be disabled because he had never previously asserted such a claim, he is fully-employed, and he does not appear to be disabled in any way. The owners sought information from Mr. Hyland's attorney to substantiate Mr. Hyland's claim and further sought information from DPW concerning the appropriate definition of disability to be applied in this instance. In the context of these discussions, Mr. Hyland asserted that he would drop any such claims in exchange for a payment of \$150,000.

The owners' application was approved by the Planning Department on November 18, 2010 and the tentative subdivision map was approved by DPW on November 30, 2010. This appeal followed.

Basis for the Appeal

This appeal appears to be based upon Mr. Hyland's contention that the proposed conversion violates Subdivision Code §1386 in that a permanently disabled person will be evicted and an eviction will occur as a part of the conversion process [See, 12/10/10 letter from Mr. Driscoll]. At the same time, Mr. Hyland claims his right to a "lifetime lease" pursuant to Subdivision Code §1391.

The appeal has no merit and should be denied. The Director of Planning and the County Surveyor correctly determined that there is no basis for denial of the tentative map pursuant to Subdivision Code §1386 because there have been no evictions, displacements, discrimination, or excessive rent increases for the purpose of preparing the building for conversion.

Further, the appeal is not well-taken because, paradoxically, if Mr. Hyland claims a lifetime lease, then such rights would attach under Subdivision Code §1391 only after the conversion has been approved. If Mr. Hyland wants a lifetime lease, then his appeal should be denied.

Argument

Mr. Hyland's request for disapproval of the tentative map based upon Subdivision Code §1386 is based upon a misapplication of that section.

Subdivision Code §1386 requires denial of the tentative map if elderly or permanently disabled persons have been evicted for the purpose of preparing the building for conversion:

SEC. 1386. - DENIAL OF TENTATIVE MAP.

When the City Planning Commission determines that vacancies in the project have been increased, or elderly or permanently disabled tenants displaced or discriminated against in leasing units, or evictions have occurred for the purpose of preparing the building for conversion, or if rents in the project over the previous 18 months preceding the date of filing the application have been increased substantially greater than any increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," (except for increases reasonably related to construction of Code-required capital improvements directly related to Code enforcement, or to recoup the costs thereof), or when the City Planning Commission determines that the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code), the Tentative Map shall be disapproved and the subdivider may not reapply for 18 months from the date of denial. In evaluation of the current vacancy level under this Section, the increase in rental rates for each unit over the preceding five years and the average monthly vacancy rate for the project over the preceding three years shall be considered. In the evaluation of displacement of elderly tenants any such displacements over the preceding three years, and the reasons therefor, shall be considered.

Subdivision Code §1393.2(a)(1) – (a)(3) lists the types of evictions that require the Department of Public Works to deny a tentative map. Under this section,

the map shall be denied if: the building had two or more evictions with each eviction associated with a separate unit(s); (2) issuance of each eviction notice occurred on or after May 1, 2005; and, (3) issuance of the eviction notice(s) occurred pursuant to San Francisco Administrative Code Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13)¹. Subdivision Code § 1963.2(b) applies this section to owner(s) of buildings with one or more evictions if "the person(s) evicted was a senior, disabled, or catastrophically ill tenant and the issuance of the eviction notice occurred in accordance with the conditions of Subsections (a)(2) and (3).

Subdivision Code §1386 is not applicable in present circumstances because there have been no evictions, displacements or discrimination for the purpose of preparing the building for conversion. Mr. Hyland has been a tenant since 1998 and has never been issued an eviction notice. The owners have not impermissibly increased rents in the past 18 months preceding the application; the rent for the subject unit has periodically increased in accordance with the Administrative Code §37.3 permitted annual increases and code-related capital improvements approved by the Rent Board. The owners have not knowingly submitted incorrect information, as has been noted above, the owners were unaware that Mr. Hyland claimed to be disabled until they received Mr. Driscoll's letter. Thus, regardless of Mr. Hyland's disability status, there is no basis to deny approval of the tentative map under §1386.

Subdivision Code §1391 provides that certain tenants are protected from eviction *after conversion is completed*:

No subdivider or subsequent condominium unit owner shall refuse to renew a lease or extend a rental agreement to any nonpurchasing tenant aged 62 or older at the time of recordation; of the Final Map or Parcel Map, or any tenant permanently disabled. Any extended leases or rental agreements made pursuant hereto shall expire only upon the death or demise of such tenant or the last surviving member of the tenant's household, provided such surviving member is related to the tenant by blood or marriage and is aged 62 or older at the time of death or demise of such tenant, or at such time as the tenant

¹ These sections of the Administrative Code refer to the following types of evictions: 37.9(a)(8) [owner-occupied evictions], 37.9(a)(10) [evictions for removal or demolition of a single rental unit], 37.9(a)(11) [evictions for temporary removal from rental for repairs or improvements], and 37.9(a)(13) [Ellis Act evictions].

voluntarily vacates the unit after giving due notice of such intent to vacate. Each lease shall contain a provision allowing the tenant to terminate the lease and vacate the unit upon 30 days' notice. Rent charged during the term of any extended lease or rental agreement pursuant to the provisions of this Section shall not exceed the rent charged at the time of filing of the application for conversion, plus any increases proportionate to the increases in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," provided that the rental increase provisions of this Section shall be operative only in the absence of other applicable rent increase or arbitration laws. This Section shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including but not limited to the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the California Civil Code. There shall be no decrease in dwelling unit maintenance or other services historically provided to such units and such tenants.

Thus, if the owners' tentative map is approved and the conversion is completed, Mr. Hyland will gain additional protections under Section 1391.

For all of the foregoing reasons, this appeal should be denied.

For the record, the respondents categorically deny Mr. Hyland's vague allegations that he has been harassed or that they have engaged in any illegal conduct. There is simply no basis for any such allegations. Nor is there any basis for the assertion that they are motivated by improper, discriminatory or speculative reasons. As noted above, the owners have resided at this property since 1987. Mr. Fry and Mr. Rascher are caring individuals who are actively involved in their community and are highly-sensitive to the needs of the truly disabled, ill and needy. They are both veterans of the Viet Nam conflict. They are deeply involved in the gay philanthropic community, and through their participation in the Imperial Court, over the years, they have raised large sums for persons with AIDS and HIV disease and other causes. Mr. Rascher was for many years the executive director of the Golden Gate Business Association and the GGBA Foundation. For the past 20 years, Mr. Rascher has been President of the Board of Directors of the Community Thrift Store (formerly the Tavern Guild Foundation) which donates all net proceeds to non-profit community endeavors.

Mr. Fry and Mr. Rascher are both retired and disabled. Mr. Rascher was recently diagnosed with cancer and is currently undergoing medical treatment. It

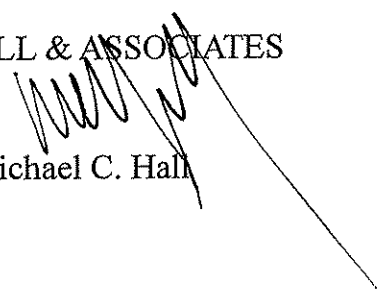
Angela Cavilla
San Francisco Board of Supervisors
December 20, 2010
Page 6 of 7

is ironic that in the present circumstances, the senior, disabled owners of this property may have their retirement plans dashed and be forced to vacate their home of many years due to their reduced financial circumstances.

Mr. Fry and Mr. Rascher have throughout this process invited dialog with Mr. Hyland and continue to hope for a negotiated solution.

Very truly yours,

M C HALL & ASSOCIATES



Michael C. Hall

Angela Cavilla
San Francisco Board of Supervisors
December 20, 2010
Page 7 of 7

Copies: Members of the Board of Supervisors
Clients
James Coy Driscoll

Michael C. Hall
Francisco A. Gutierrez

M C HALL & ASSOCIATES
Attorneys at Law
605 Market Street, Suite 900
San Francisco, CA 94105
Tel: 415/512-9865
Fax: 415/495-7204
mhalllaw.com

Of Counsel:
Andres Sanchez
Donald L. Tasto
Allison L. Wang

September 16, 2010

By First Class Mail, copy by email

Mr. Bruce R. Storrs, PLC
City and County Surveyor
City and County of San Francisco
875 Stevenson Street, Ste. 410
San Francisco CA 94103

Re: 74-76 Castro Street Condominium Conversion

Dear Mr. Storrs:

The purpose of this letter is to clarify some points in Mr. Driscoll's September 3, 2010 letter regarding his request that the San Francisco Planning Commission disapprove the tentative map pursuant to Subdivision Code § 1386 on the ground that a permanently disabled person will be evicted as part of the conversion process.

As previously discussed in my letter of August 17, 2010, Mr. Driscoll's request the Planning Commission disapprove the tentative map pursuant to Subdivision Code § 1386 is based on a misapplication of that section.

Subdivision Code § 1386 requires denial of the tentative map if elderly or permanently disabled tenants have been evicted *for the purpose of preparing the building for conversion*.

When the City Planning Commission determines that vacancies in the project have been increased, or elderly or permanently disabled tenants displaced or discriminated against in leasing units, *or evictions have occurred for the purpose of preparing the building for conversion*, or if rents in the project over the previous 18 months preceding the date of filing the application have been increased substantially greater than any increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," (except for increases reasonably related to construction of Code-required capital improvements directly related to Code enforcement, or to recoup the costs thereof), or when the City Planning Commission determines that the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code), the Tentative Map shall be disapproved...

Subdivision Code § 1393.2(a)(1) – (a)(3) lists the types of evictions that require the Department of Public Works to deny a tentative subdivision or tentative parcel map for residential condominium conversion. Under this section, the map *shall be denied* if:

(1) the building had two or more evictions with each eviction associated with a separate unit(s); (2) issuance of each eviction notice occurred on or after May 1, 2005; and, (3) issuance of the eviction notice(s) occurred pursuant to San Francisco Administrative Code Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13)¹.

Subdivision Code § 1963.2(b) applies this section to owner(s) of a building with one or more evictions if “the person(s) evicted was a senior, disabled, or catastrophically ill tenant and the issuance of the eviction notice occurred in accordance with the conditions of Subsections (a)(2) and (3)².”

The subject building is a two-unit building. Mr. Hyland has been a tenant since 1998, and *has never been issued an eviction notice*. The subdividers have not displaced or discriminated against protected tenants for the purpose of preparing the building for conversion. The subdividers have not impermissibly increased rents in the past 18 months preceding the application; the rent for the subject rental unit has periodically increased in accordance with the Administrative Code 37.3 permitted annual increases and code-related capital improvement increases approved by the Rent Board. The subdividers have not knowingly submitted inaccurate information.

Thus, *regardless of his disability status*, there is no basis to deny approval of the tentative map based on Section 1386. The only issue at this time is whether Mr. Fry and have ever Mr. Rascher evicted anyone protected under Sections 1396.2 or 1386 *for the purpose of preparing the building for conversion*. Accordingly, the possibility that a protected person may be evicted *after the conversion process is complete* is not one of the grounds for denial of the Tentative Map under any section of the Subdivision Code.

¹ These sections of the Administrative Code refer to the following types of evictions: 37.9(a)(8) [owner-occupied evictions], 37.9(a)(10) [evictions for removal or demolition of a single rental unit], 37.9(a)(11) [evictions for temporary removal from rental for repairs or improvements], and 37.9(a)(13) [Ellis Act evictions].

² For purposes of this Subsection, a “senior” shall be a person who is 60 years or older and has been residing in the unit for ten years or more at the time of issuance of the eviction notice; a “disabled” tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a “catastrophically ill” tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician. Subdivision Code § 1963.2(b).

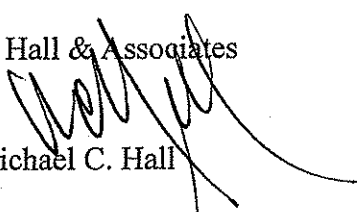
Moreover, the fact that Mr. Hyland may face eviction from his home *after* the conversion is not a reason to deny the tentative map under any provision of the Subdivision Code. Rather, the Subdivision Code and the Administrative Code both allow eviction after a condominium conversion.

Administrative Code § 37.9(a)(9) provides for evictions in order to sell a unit *in accordance with a condominium conversion* approved under the San Francisco Subdivision Code, *provided the eviction is in good faith*. Subdivision Code § 1381(6)(A) requires that subdividers give written notice to all tenants including the right to receive relocation assistance and benefits, the right of all tenants to extend occupancy for a period of from one to three years depending upon length of prior occupancy, and the prohibition against rent increases during the process of conversion.” Subdivision Code § 1391 protects elderly and permanently disabled tenants from eviction *after* conversion by conferring a lifetime lease. Accordingly, Mr. Hyland has numerous legal protections in the event he is ever wrongly evicted from his unit.

Last, the owners are now aware of Mr. Hyland’s claim of permanent disability based on his HIV-positive status. When, and if, there is an eviction after conversion, the owners will provide Mr. Hyland with an opportunity to establish the full nature and extent of his disability. Thereafter, they will provide Mr. Hyland with all of the protection(s) to which he is entitled under the law at the time eviction is contemplated.

Very truly yours,

M C Hall & Associates


Michael C. Hall

Copy: Clients
Human Rights Commission
James Coy Driscoll

Michael C. Hall
Francisco A. Gutierrez

M C HALL & ASSOCIATES
Attorneys at Law
605 Market Street, Suite 900
San Francisco, CA 94105
Tel: 415/512-9865
Fax: 415/495-7204
mhalllaw.com

Of Counsel:
Andres Sanchez
Donald L. Tasto

August 17, 2010

By First Class Mail, copy by email

John Rahaim
Director of Planning
San Francisco Planning Department
1650 Mission Street, Ste. 400
San Francisco CA 94103-2479

Re: 74-76 Castro Street Condominium Conversion

Dear Mr. Rahaim:

This will respond to James Driscoll's August 9, 2010 letter to you concerning the claim of Martin Hyland. I represent Steven Rascher and Gene Fry, the property owners. My clients are the owner-occupants of 76 Castro Street. They rented 74 Castro Street to Martin Hyland under a tenancy agreement dated July 1998. My office assisted the property owners submit their application for condominium conversion based on the 2010 lottery results.

We provided Mr. Hyland with notification of tenancy rights pursuant to Subdivision Code §1381(a) (6). Mr. Driscoll wrote to me on July 22, 2010: "*I understand that your clients won the 2010 San Francisco condominium conversion lottery for my client's home. My client is permanently disabled. Pursuant to San Francisco Subdivision Code §1391, my client hereby requests a lifetime lease of his home, as set out in subdivision (3) of the above-referenced Code section (sic).*" My clients were surprised to learn of Mr. Hyland's disability claim because he had not previously asserted such a claim and does not appear to be disabled in any way. Therefore, I contacted Mr. Driscoll in an effort to gather more information. Despite repeated requests, Mr. Driscoll has not provided any specific information or documents related to Mr. Hyland's disability claim. The request for further information was pending at the time that the subdividers submitted their application on July 30, 2010.

My last contact with Mr. Driscoll was a phone conversation wherein I indicated to him that my clients would be willing to participate in low-cost mediation through the Bar Association of San Francisco. I urged Mr. Driscoll to consider the highly-

John Rahaim
Director of Planning
August 17, 2010
Page 2 of 7

qualified attorney-mediators who offer their services through the Bar Association and to respond to me with his suggestions. He did not respond to me directly; instead he apparently sent you his August 9 letter wherein he asks that my clients' application be denied. I found this surprising and disappointing. As of this date, my clients still do not have any further information concerning Mr. Hyland's disability claim and all of my efforts to solicit such information have been rebuffed.

Based upon his August 9 letter, I now understand that Mr. Driscoll is making two distinct requests. 1) He asks the San Francisco Planning Commission to disapprove the tentative map pursuant to Subdivision Code § 1386 on the ground that a permanently disabled person will be evicted as part of the conversion process. 2) He also asks that Mr. Hyland be granted a "lifetime lease" pursuant to Subdivision Code § 1391, subdivision (3) (*sic*.) I will address each of these issues in turn.

Denial of Tentative Map

Subdivision Code 1386 provides:

When the City Planning Commission determines that vacancies in the project have been increased, or elderly or permanently disabled tenants displaced or discriminated against in leasing units, or evictions have occurred for the purpose of preparing the building for conversion, or if rents in the project over the previous 18 months preceding the date of filing the application have been increased substantially greater than any increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," (except for increases reasonably related to construction of Code-required capital improvements directly related to Code enforcement, or to recoup the costs thereof), or when the City Planning Commission determines that the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code), the Tentative Map shall be disapproved...

There is no basis to deny of approval of the tentative map pursuant to section 1386. The project is comprised of two residential units: the rental unit occupied by Mr. Hyland and the subdividers' owner-occupied unit at 76 Castro Street. There have been no evictions. Mr. Hyland has occupied 74 Castro Street under the existing rental agreement since 1998. There is no allegation that the

subdividers have displaced or discriminated against protected tenants for the purpose of preparing the building for conversion. There is no allegation that the subdividers have impermissibly increased rents. The rent for the subject rental unit has periodically increased in accordance with the Administrative Code 37.3 permitted annual increases and code-related capital improvement increases approved by the Rent Board. There is no allegation that the subdividers have knowingly submitted inaccurate information.

The only basis asserted by Mr. Driscoll – that a protected person will be evicted as part of the conversion process – is not one of the grounds for denial of the Tentative Map under Section 1386. Moreover, Mr. Driscoll's assertion lacks factual foundation because it has not been established that a protected person would be displaced.

As this matter is under review, I request consideration of the circumstances of Mr. Rascher and Mr. Fry. Both of them are seniors, retired and have limited income. Mr. Rascher is a cancer survivor and is still undergoing rigorous medical treatments. The subject two-unit property at 74-76 Castro Street is their primary asset and the main feature of their retirement plan. They worked very hard during their entire lives to acquire and maintain this property. Recently, in 2008, before Mr. Rascher was diagnosed with cancer, they spent nearly \$300,000 to waterproof and repaint the building, thereby encumbering a major portion of their retirement assets. This proposed condominium conversion is necessary in order to provide for their retirement years and, if it not approved, will probably result in a forced taxable sale of the property and extremely reduced financial circumstances for my clients.

For the above reasons, there is no basis to forward Mr. Driscoll's request to deny approval of the Tentative Map based upon Section 1386 to the Planning Commission.

Lifetime Lease – Disability

Mr. Driscoll asks that Mr. Hyland be granted a "lifetime lease" under Section 1386 on the ground that he is permanently disabled. It would seem that Mr. Driscoll raises this issue prematurely in that the "lifetime lease" protection of Section 1391(c) does not become an issue until after the recordation of the final map:

John Rahaim
Director of Planning
August 17, 2010
Page 4 of 7

No subdivider or subsequent condominium unit owner shall refuse to renew a lease or extend a rental agreement to any nonpurchasing tenant aged 62 or older at the time of recordation; of the Final Map or Parcel Map, or any tenant permanently disabled. Any extended leases or rental agreements made pursuant hereto shall expire only upon the death or demise of such tenant or the last surviving member of the tenant's household, provided such surviving member is related to the tenant by blood or marriage and is aged 62 or older at the time of death or demise of such tenant, or at such time as the tenant voluntarily vacates the unit after giving due notice of such intent to vacate. Each lease shall contain a provision allowing the tenant to terminate the lease and vacate the unit upon 30 days' notice.

The subdividers have solicited factual information in support of the claim from Mr. Driscoll and by this letter seek clarification from the Department regarding the applicable definition of disability under Section 1391.

My clients were surprised to learn of Mr. Hyland's disability claim. Mr. Hyland does not appear to be disabled in any way. In fact, we are aware that Mr. Hyland is actively engaged in his profession as a certified massage therapist, which obviously requires vigorous physical health. See his recent reviews on www.MasseurFinder.com. The only information that we have concerning his disability claim is the following statement from Mr. Driscoll's letter to me of July 22, 2010: *"I understand that your clients won the 2010 San Francisco condominium conversion lottery for my client's home. My client is permanently disabled. Pursuant to San Francisco Subdivision Code §1391, my client hereby requests a lifetime lease of his home, as set out in subdivision (3) of the above-referenced Code section (sic)."* Despite my repeated requests to Mr. Driscoll, he has refused to provide any further information concerning the disability claim. However, he did state that his client was prepared to drop his claim in exchange for payment in the amount of \$150,000.

Notwithstanding his demand for such an extravagant sum, Mr. Hyland does not appear to be financially-constrained. His monthly rent for the dwelling that he rents from my clients is \$2790.42.

Even though it is premature, we have been attempting to evaluate Mr. Hyland's request. In order to respond, it is necessary to evaluate whether Mr. Hyland is permanently disabled according to some ascertainable definition. However, Section 1386 does not define permanent disability. It is my understanding that

the Planning Department has historically defined "disabled" or "disability" within the intent of Subdivision Code Section 1391 (c) an impairment sufficient to qualify the individual for Supplemental Security Income ["SSI"]. In this regard, the definition of disability under Section 1391 (c) has been different from the more liberal definition of Section 1396.2(b)(1), having to do with the disqualification of lottery entrants with bad evictions. Clearly, Section 1396.2 did not operate to bar the subdividers' lottery eligibility because there is no history of any evictions.

Mr. Driscoll argues that that the Department should apply the Section 1396.2(b)(1) definition in this case, even though Section 1396.2 applies only to qualification for lottery entrants. Now that they have qualified for condominium conversion by winning the lottery, Mr. Driscoll seeks to prevent the possible future displacement of Mr. Hyland by asserting the disability claim using a liberal definition and without providing any medical information.

We seek clarification of this issue from the Department. From the point of view of the various project sponsors and legal practitioners advising them, investing substantial sums and effort into lawful condominium development, it is extremely important to be able to rely upon such historical precedent and the consistent application thereof by the Department.

Substantively, there are important reasons to differentiate between the more-liberal definition of disability applicable to lottery qualification for under section 1396.2(b)(1) and the more restrictive definition that has been applied after condo conversion under 1391(c). At the time that the lottery-entry restrictions were enacted, there had been a great, accelerating wave of multiple-OMI and Ellis Act evictions of low-income, disabled and older individuals by speculators in anticipation of condo conversion, and the resulting hardship was great. The enactment of these restrictions in the Subdivision Code (and similar restrictions in the Administrative Code eviction provisions) largely halted such displacements. It was deemed imperative to dampen speculation by enacting rules so that new purchasers would not be able to displace tenants in order to condo-convert and "flip" the units. As a protective measure, the broadest definition of disability was incorporated, so that any serious diagnosis would result in protection, irrespective of the success of medical treatment. As a consequence, the number of Ellis Act and OMI evictions has dropped precipitously.

In contrast, there is no similar "flipping" phenomenon occurring after qualified applicants have invested considerable sums and years of waiting to win the lottery, and then proceeded through the subdivision process and extensive, costly

renovations required by the Division of Building Inspection. Such qualified applicants are not speculating - they are simply developing their property to the highest and best use, which is a process that should be encouraged by the Planning Department. After the subdivision has been completed, there is no reason to dampen or discourage speculation by imposing a broad definition of disability. Moreover, using such a broad definition within the post-application process would interject an unpredictable element of chance, in that a tenant could become diagnosed, and therefore, under a very broad definition, disabled, at any point after the condo-conversion process has commenced. Limited condominium conversion is encouraged under the Subdivision Code. Such conversion would be inhibited greatly if qualified applicants could not rely upon the possibility of selling units at the end of the process. Qualified applicants who have vested rights to convert should not be impaired from disposing of a unit by sale upon the happenstance of one of their tenants becoming diagnosed with a mildly-disabling condition at any point during the process. The Code provides extensive for tenant rights after conversion including, tenant right to purchase and right to a one-year lease plus relocation assistance and monetary aid. The prevention of tenant displacement through a lifetime lease should be preserved only for the seriously-disabled or aged. It does not seem appropriate or necessary to convey lifetime leases upon younger tenants who have been diagnosed with any condition that can be completely ameliorated with medicine. On the other hand, the historical precedent of "qualified for SSI" provides a fixed and readily-ascertainable standard, plus a greater justification for the lifetime-lease protection in that SSI recipients do not have the ability to support themselves through employment.

Another important factor to consider in the case at hand is that this is a two-unit building. Mr. Hyland's unit is the only tenant-occupied unit. As a result, if Mr. Hyland qualifies for a life-time lease, and given his relatively young age and obviously good health, my clients could not afford to maintain their own residence and would be forced to sell in order to fund their basic retirement needs. Under these circumstances, it would seem inappropriate to apply a new and broader definition of disability and provide a windfall for Mr. Hyland.

Any accusation that my clients are insensitive to the aged, ill or disabled is an affront. Mr. Fry and Mr. Rascher are caring individuals who are actively involved in their community and are highly-sensitive to the needs of the truly disabled, ill and needy. They are both veterans of the Viet Nam conflict. They are deeply involved in the gay philanthropic community, and through their participation in the Imperial Court, over the years, they have raised large sums for persons with AIDS and HIV disease and other causes. Mr. Rascher was for many

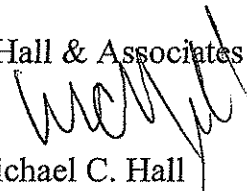
John Rahaim
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years the executive director of the Golden Gate Business Association and the GGBA Foundation. For the past 20 years, Mr. Rascher has been President of the Board of Directors of the Community Thrift Store (formerly the Tavern Guild Foundation) which donates all net proceeds to non-profit community endeavors.

Of course, if and when it becomes necessary for Mr. Hyland to relocate, my clients are absolutely willing to consider his needs. They invite dialog. I look forward to further communication with your office in order to clarify the appropriate response.

Very truly yours,

M C Hall & Associates



Michael C. Hall

Copy: Clients

James Coy Driscoll

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL: jcdlawyer@jcdlaw.com

August 9, 2010

Mr. John Rahaim
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: My Client Martin Hyland; 74 Castro Street, San Francisco

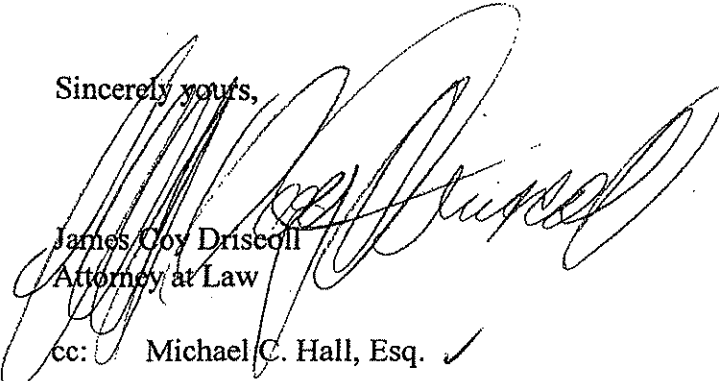
Dear Mr. Rahaim:

I am the attorney for Martin Hyland, who lives at 74 Castro Street, San Francisco. The owners of the property won the 2010 San Francisco condominium conversion lottery for my client's home. My client is disabled and is claiming his right, pursuant to San Francisco Subdivision Code §1391, to a lifetime lease of his home, as set out in subdivision (3) of the above-referenced Code section. The property owners' attorney, Michael C. Hall, Esq., contends that my client is not disabled and is, therefore, subject to eviction due to the proposed condominium conversion.

I contend that the appropriate definition of "disabled" for the purposes of San Francisco Subdivision Code §1391 is San Francisco Administrative Code §12A.3(a), California Government Code section 12926, or 42 U.S.C. 12102. My client is disabled under any of these definitions. Mr. Hall has indicated to me that he disagrees with me. He suggests that a far more draconian standard is appropriate, a standard which would permit my client's eviction.

The proposed condominium conversion violates San Francisco Subdivision Code §1386 in that 1) a permanently disabled person will be evicted and 2) an eviction will occur as part of the conversion process. On behalf of my client, I request the San Francisco Planning Commission to disapprove the tentative map for the condominium conversion pursuant to San Francisco Subdivision Code §1386.

Sincerely yours,



James Coy Driscoll
Attorney at Law

cc: Michael C. Hall, Esq. ✓

D. APPLICATION

(To be submitted by all Residential Condominium Conversion applicants)

Property Address: 74-76 CASTRO STREETAssessor's Block: 2611 Lot Number(s): 013For DPW-BSM use only
ID No.: 6175

Owner:	
Name:	F. EUGENE FRY and STEVEN H. RASCHER*
Address:	76 CASTRO STREET, SAN FRANCISCO, CA 94114
Phone:	(415) 722-3391
E-mail:	steven.rascher@yahoo.com
Person to be contacted concerning this project (if different from owner)	
Name:	MICHAEL C. HALL, ATTORNEY AT LAW
Address:	605 MARKET STREET, SUITE 600, SAN FRANCISCO, CA 94105
Phone:	(415) 512-9865
E-mail:	mhall@mhalllaw.com
Firm or agent preparing the subdivision map:	
Name:	MARTIN M. RON ASSOCIATES, INC.
Address:	859 HARRISON STREET, SUITE 200, SAN FRANCISCO, CA 94107
Phone:	(415) 543-4500
E-mail:	johnm@martinron.com
Subdivider: (if different from owner)	
Name:	N/A
Address:	

*TRUSTEES OF THE FRY/RASCHER REVOCABLE TRUST DATED AUGUST 9, 2007

Number of Units in Project: 2This subdivision results in an airspace: ☒ No ☐ Yes (shown on Tentative Map)

Check only one of the following options:

	2-unit (Lottery bypass) <i>(All residential units owner occupied)</i>	2-4 units (Lottery)	5-6 units (Lottery)
Residential Only	☐	☒	☐
Mixed Use	☐ If checked, Number of residential unit(s): <u>1</u>	☐ If checked, Number of residential unit(s): _____ Number of commercial unit(s): _____	☐ If checked, Number of residential unit(s): _____ Number of commercial unit(s): _____

** In Mixed Use Conversions where there is one residential unit only, there is no owner occupancy requirement.

STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCOI (We) F. EUGENE FRY and STEVEN H. RASCHER
(Print Subdivider's Name in full)

declare, under penalty of perjury, that I am (we are) the owner(s) [authorized agent of the owner(s)] of the property that is the subject of this application, that the statements herein and in the attached exhibits present the information required for this application, and the information presented is true and correct to the best of my (our) knowledge and belief.

Date: 7.29.10Signed: Steven H. RascherDate: 7.29.10Signed: F. Eugene Fry

F. FORMS**Form No. 1**

(To be submitted by all Residential Condominium Conversion applicants)

**Building History, Statement of Repairs & Improvements,
Occupants, Rental History, and Proposed Prices**Assessor's Block 2611 Lot 013Address 74-76 CASTRO STREET**Item No. 6 - Building History**

THE OWNERS HAVE NO INFORMATION REGARDING BUILDING HISTORY OTHER THAN AS PROVIDED ON THE 3R REPORT.

Item No. 7 - Statement of Repairs & Improvements

THE OWNERS DO NOT PLAN ANY MAJOR WORK DURING THE CONVERSION PROCESS EXCEPT AS REQUIRED PURSUANT TO THE 3R INSPECTION.

Item No. 8 - List of occupants, their apartment number, vacant units, and owners and tenants who intend to purchase

Unit	Occupant Name	Apartment Number	Is the unit vacant?		Does occupant intend to purchase unit?	
One	MARTIN HYLAND	74	☐ Yes	☒ No	☐ Yes	☒ No
Two	JOHN DAVID MERRIMAN	74	☐ Yes	☒ No	☐ Yes	☒ No
Three	BLAKE ROGERS	74	☐ Yes	☒ No	☐ Yes	☒ No
Four	F. EUGENE FRY	76	☐ Yes	☒ No	☒ Yes	☐ No
Five	STEVEN H. RASCHER	76	☐ Yes	☒ No	☒ Yes	☐ No
Six		N/A	☐ Yes	☐ No	☐ Yes	☐ No

Total # of vacant units: 0**Item No. 9 - Five-year Rental History (Include all building occupants)****Five Year Rental History**

Apartment No.	Duration (mm/dd/yy)	Occupants	Rent	Reason for Termination/Leaving
74	6/1/91-PRESENT	MARTIN HYLAND	\$2,790.42	N/A
74	7/1/08-PRESENT	JOHN DAVID MERRIMAN	N/A*	N/A
74	3/1/10-PRESENT	BLAKE ROGERS	N/A*	N/A
74	5/15/05-6/30/08	RUSS RICHARD NORDEMEYER	N/A*	VOLUNTARY VACATE
74	9/1/06-6/30/08	MATTHEW LINZER	N/A*	VOLUNTARY VACATE
74	5/15/05-8/31/06	VICENTE FONTANILLA GARCIA	N/A*	VOLUNTARY VACATE
76	9/1/89-PRESENT	F. EUGENE FRY/STEVEN RASCHER	N/A	OWNER-OCCUPANTS

*SEE ATTACHMENT

Michael C. Hall
Francisco A. Gutierrez

M C HALL & ASSOCIATES
Attorneys and Counselors at Law
605 Market Street, Suite 900
San Francisco, CA 94105
Tel: (415) 512-9865
Fax: (415) 495-7204
mhalllaw.com

Of Counsel:
Andres Sanchez
Donald L. Tasto

June 22, 2010

Via Certified Mail, Copy by First Class Mail

Martin Hyland
74 Castro Street
San Francisco, CA 94114

Re: Notice of Proposed Condominium Conversion

Dear Mr. Hyland:

As you know, this office serves as legal counsel for Steven Rascher and Eugene Fry, the owners of the residence you rent located at 74 Castro Street. The owners plan to file a condominium map with the City and County of San Francisco ("CCSF"), and to convert the property to condominiums. Under applicable law, the owners are required to provide you with the information contained in and accompanying this Notice as well as the rights and benefits described in this material.

1. Public Hearing. No public hearing is required for buildings containing four or fewer residential units, such as 74-76 Castro Street.

2. City Inspection Report. CCSF's Department of Building Inspection ("DBI") will inspect the property for housing code violations and incipient or potential deficiencies including electrical, plumbing, boiler and energy conservation requirements. A copy of DBI's report will be provided upon request following completion of the report.

3. Proposed Repairs and Improvements Prior to Conversion. The owners are not representing to you that they will make any repairs and improvements to the property prior to conveying the condominium units.

4. Proposed Sale Prices and Home Owners' Association Dues. The following chart contains the prices at which the owners would offer the condominium units for sale if they choose to sell the units, and the projected monthly home owners' association dues:

same as it is now except for any rent increases allowed by the San Francisco Residential Rent Stabilization and Arbitration Ordinance ("Rent Ordinance") or, if such Rent Ordinance is not applicable to your unit, any increases proportionate to the increase in the Residential Rent Component of the "Bay Area Cost of Living Index, U.S. Department of Labor".

B. Lifetime Lease Available to Elderly or Disabled Tenants. If you are age 62 or older or permanently disabled at the time of recordation of the Parcel Map, you are entitled to continue to rent your apartment until the later of (i) your death, (ii) the death of the last surviving member of your household who is related to you by blood or marriage and is age 62 or older at the time of your death, or (iii) the date you voluntarily vacate the premises following the required notice. Your rent will remain the same as it is now except for any rent increases allowed by the Rent Ordinance or, if such Rent Ordinance is not applicable to your unit, any increases proportionate to the increase in the Residential Rent Component of the "Bay Area Cost of Living Index, U.S. Department of Labor".

C. Relocation Assistance for Tenants Who Were in Occupancy on the Date the Condominium Conversion Application Was Filed. If you voluntarily vacate the premises at the end of the one-year extension term, or if you decline the one-year extension term and voluntarily vacate within the next one hundred twenty (120) days, or if you are eligible for a lifetime lease as described in the preceding section and voluntarily vacate the premises during your lifetime lease, then you may request relocation assistance and moving expenses. If you request relocation assistance, such assistance shall be provided by the Central Relocation Services agency for CCSF ("CRS") and the owners shall bear any cost of this assistance. When you move, you will be reimbursed for either your actual moving expenses up to one thousand dollars (\$1,000) or the fixed amount for moving expenses allowed under the CRS moving expense schedule, whichever you prefer.

Please acknowledge your receipt and understanding of this Notice by executing the "Acknowledgment" below. Additionally, if you wish to exercise the above-described right to purchase, please complete the enclosed "Tenant Intent to Purchase" form which we will file with CCSF. Please return the executed "Acknowledgment" and, if applicable, the "Tenant Intent to Purchase" to me by June 30, 2010. Please be sure to retain copies of these documents for your records.

Re: 64-76 Castro Street
Block #2611 Lot #013
Condominium Conversion Checklist Item #22

ADDRESS LIST

Owners:

F. Eugene Fry
Steven H. Rascher
76 Castro Street
San Francisco, CA 94114

Tenant:

Martin Hyland
74 Castro Street
San Francisco, CA 94114



Gavin Newsom, Mayor
Edward D. Reiskin, Director
Fuad S. Sweiss, PE, PLS,

City Engineer & Deputy Director of Engineering



Phone: (415) 554-5827

Fax: (415) 554-5324

www.sfdpw.org

Subdivision.Mapping@sfdpw.org

Department of Public Works
Office of the City and County Surveyor
875 Stevenson Street, Room 410
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Martin Ron Associates
859 Harrison Street, Suite 200
San Francisco, CA 94107

Tentative Map Approval

PID: 6175

Assessor's Block No. 2611 Lot(s) 013

Address: 74 - 76 Castro Street

Project type: 2 Unit Condominium Conversion

Date: November 30, 2010

Dear Mr. Ben Ron, PLS:

The Tentative Map which you submitted to this Agency for review is approved, subject to compliance with the following:

The C.C.S.F. Planning Code and all Planning Department conditions outlined in the attached Planning Department memo dated November 15, 2010

☒ Copy of Planning Department approval/conditions (check if attached)

The C.C.S.F. Building Code and all Department of Building Inspection conditions outlined in the attached D.B.I. memo dated _____

☐ Copy of D.B.I. approval/conditions (check if attached)

The San Francisco Redevelopment Agency conditions outlined in the attached S.F.R.A. memo dated _____

☐ Copy of S.F.R.A. approval/conditions (check if attached)

The C.C.S.F. Subdivision Code and the California State Map Act

Additionally, please submit:

☒ Two (2) Check Prints of the final version of this map

☒ One (1) copy of C.F.C. (Certificate of Final Completion)

☒ One (1) copy of the Map Checklist (found at our website under: "Information for Mapping Professionals")

Do not submit check prints without complying with ALL of the above.

Incomplete submittals will be returned and subject to additional handling charges.

Sincerely,

Bruce R. Storrs, PLS
City and County Surveyor

Tentative approval valid for 36 months:

This Tentative Map Approval is valid for 36 months, unless a written request for an extension is received prior to the expiration date. When the approved time frame expires, the project is terminated. A completely new application packet together with new fees must then be submitted to DPW/BSM to reopen or reactivate the project.

Contesting this decision:

If you wish to contest this decision, you may do so by filing an appeal (together with an appeal fee check for \$250) with the Clerk of the Board of Supervisors, 1 Dr. Carlton B. Goodlett Place (formerly 400 Van Ness Ave.), Room 244, within ten (10) days of the date of this letter per Section 1314 of the San Francisco Subdivision Code.



Gavin Newsom, Mayor
Edward D. Reiskin, Director
Fuad S. Sweiss, PE, PLS,
City Engineer & Deputy Director of Engineering



Department of Public Works
Office of the City and County Surveyor
875 Stevenson Street, Room 410
San Francisco, CA 94103

Bruce R. Storrs, City and County Surveyor

Date: November 30, 2010

Approval of Tentative/Parcel Map for		
Address	Block	Lot
74 - 76 CASTRO ST	2611	013

Dear Sir/Madam:

This is to advise you that based on our findings the County Surveyor has made his decision affirming the approval of the subject Tentative/Parcel Map.

The County Surveyor, together with the Planning Department and Department of Building Inspection have reviewed the application for conformity with the General Plan, and with the requirements of the Subdivision Map Act, the San Francisco Code and applicable regulations for the Tentative/Parcel Map for the creation of:

2 Unit Condominium Conversion

Subdivision Code Section 1314 provides that an appeal of the decision of the County Surveyor may be made to the Board of Supervisors located at 1 Dr. Carlton B. Goodlett Place, Room 244 (telephone number 554-5184).

Any such appeal must be filed in writing with the Clerk of the Board within ten (10) days of the date of this letter along with a check in the amount of \$280 made out to the Department of Public Works.

If you have any questions on this matter, please contact Bruce R. Storrs, County Surveyor, of this Department at 554-5827.

Sincerely,


Bruce R. Storrs, P.E., S.
City and County Surveyor



RECEIVED

10 NOV 18 PM 4: 16



(415) 554-5827
FAX (415) 554-5324
http://www.sfdpw.com

Department of Public Works
Bureau of Street-Use and Mapping
875 Stevenson Street, Room 410
San Francisco, CA 94103-0942

Gavin Newsom, Mayor
Edward D. Reiskin, Director
Fuad S. Sweiss, City Engineer & Deputy Director for Engineering

Barbara L. Moy, Bureau Manager
Bruce Storrs, City and County Surveyor

Date: July 30, 2010

Department of City Planning
1650 Mission Street, Suite 400
San Francisco, CA 94103

Project ID: 6175			
Project Type: 2 Units Condo Conversion			
Address#	StreetName	Block	Lot
74 - 76	CASTRO ST	2611	013
Tentative Map Referral			

Attention: Mr. Scott F. Sanchez

Pursuant to Section 1325 of the City and County of San Francisco Subdivision Code and Section 4.105 of the 1996 City Charter, a print of the above referenced Map is submitted for your review, CEQA and General Plan conformity determination. Under the provisions of the Subdivision Map Act and the City and County of San Francisco Subdivision Code, your Department must respond to the Bureau of Street-Use and Mapping within 30 days of the receipt of the application or CEQA Determination per SMA 664521(c). Under these same state and local codes, DPW is required to approve, conditionally approve, or disapprove the above referenced map within 50 days of the receipt of the application or CEQA Determination per SMA 664521(c). Failure to do so constitutes automatic approval. Thank you for your timely review of this Map.

Enclosures:

- ☒ Print of Parcel Map
- ☒ List "B"
- ☒ Proposition "M" Findings
- ☒ Photos

Sincerely,

Bruce R. Storrs, P.L.S.
City and County Surveyor

☒ The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code. On balance, the Tentative Map is consistent with the General Plan and the Priority Policies of Planning Code Section 101.1 based on the attached findings. The subject referral is exempt from environmental review per Class 1 California Environmental Quality Act Guidelines. *we acknowledge the attached written correspondence from Mr. Driscoll but will leave DPW to determine if there is a protected right at 74 Castro St. as is normal protocol*

☐ The subject Tentative Map has been reviewed by the Planning Department and does comply with applicable provisions of the Planning Code subject to the following conditions (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):

The subject Tentative Map has been reviewed by the Planning Department and does not comply with applicable provisions of the Planning Code. Due to the following reasons (Any requested documents should be sent in with a copy of this letter to Scott F. Sanchez at the above address):

PLANNING DEPARTMENT

DATE 11/15/2010

Mr. Scott F. Sanchez, Acting Zoning Administrator

"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

Customer Service

Teamwork

Continuous Improvement

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL jcdlawyer@jcdlaw.com

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AUG 10 2010

CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
ADMINISTRATION

August 9, 2010

Mr. John Rahaim
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: My Client Martin Hyland; 74 Castro Street, San Francisco

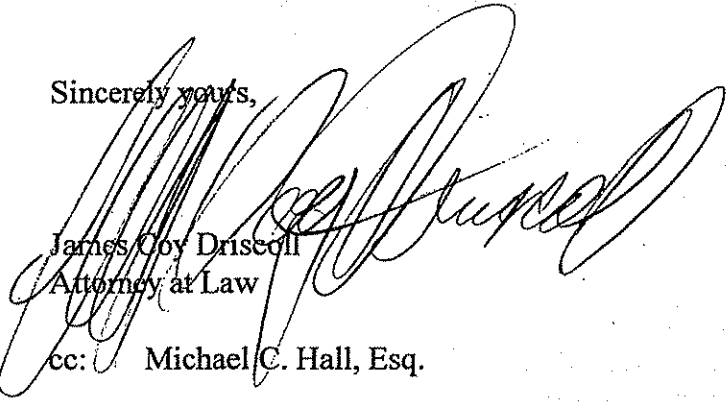
Dear Mr. Rahaim:

I am the attorney for Martin Hyland, who lives at 74 Castro Street, San Francisco. The owners of the property won the 2010 San Francisco condominium conversion lottery for my client's home. My client is disabled and is claiming his right, pursuant to San Francisco Subdivision Code §1391, to a lifetime lease of his home, as set out in subdivision (3) of the above-referenced Code section. The property owners' attorney, Michael C. Hall, Esq., contends that my client is not disabled and is, therefore, subject to eviction due to the proposed condominium conversion.

I contend that the appropriate definition of "disabled" for the purposes of San Francisco Subdivision Code §1391 is San Francisco Administrative Code §12A.3(a), California Government Code section 12926, or 42 U.S.C. 12102. My client is disabled under any of these definitions. Mr. Hall has indicated to me that he disagrees with me. He suggests that a far more draconian standard is appropriate, a standard which would permit my client's eviction.

The proposed condominium conversion violates San Francisco Subdivision Code §1386 in that 1) a permanently disabled person will be evicted and 2) an eviction will occur as part of the conversion process. On behalf of my client, I request the San Francisco Planning Commission to disapprove the tentative map for the condominium conversion pursuant to San Francisco Subdivision Code §1386.

Sincerely yours,


James Coy Driscoll
Attorney at Law

cc: Michael C. Hall, Esq.

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL jcdlawyer@jcdlaw.com

RECEIVED
SEP - 7 2010
CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
ADMINISTRATION

September 3, 2010

Mr. John Rahaim
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: My Client Martin Hyland; 74 Castro Street, San Francisco

Dear Mr. Rahaim:

I am writing in response to the letter to you from Michael C. Hall, Esq., dated August 17, 2010.

Mr. Hyland is a long-term tenant in his home; the building owners want him out so that they can either rent the unit for more money or obtain a higher selling price for the building with his unit empty. My client has been subjected to years of harassment and illegal conduct by the building owners in the hopes of inducing him to move out. Now, the building owners are refusing to acknowledge his permanently disabled status to avoid giving him a lifetime lease, as they are required to do by law. I am writing to clear up a few matters raised in Mr. Hall's letter.

It is unlikely that the property owners Mr. Hall represents were surprised that my client is disabled; Mr. Hyland is very open about his diagnosis of HIV. Perhaps, they were surprised that Mr. Hyland had chosen to oppose their plans to evict him.

Mr. Hall goes to great lengths in his letter to portray my client as a well-heeled, healthy individual and his client as frail old men. Nothing is further from the truth.

My client has gone to great lengths to get and keep his person in good shape; this is necessary due to the life-threatening nature of his disease. Being in good physical shape helps his body fight HIV. Were Mr. Hyland to allow himself to fall off his exercise schedule, he would be tempting death. Further, my client works as a masseur. The income that he derives from that occupation is enough to keep him going—but not if he were forced to move from his rent-controlled home.

Likewise, Mr. Hall's depiction of his clients as helpless victims makes no sense. Mr. Hall asserts that were the condominium conversion not go through, his clients would likely have to sell the

Mr. John Rahaim
September 3, 2010
Page 2

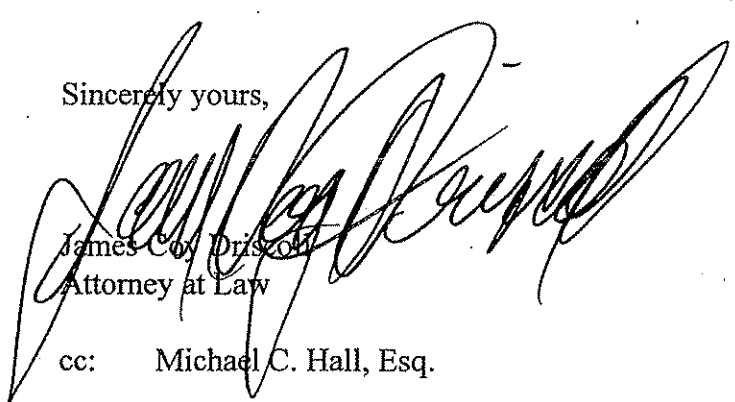
property, which he claims is their primary asset. That is an unlikely situation. Considering the difficulty in obtaining a condominium conversion in San Francisco, it is very unlikely that one would base his economic future on such a happenstance. Further, one has trouble considering as frail a man who climbed the side of three-story building to spy on his tenant, as Mr. Fry did to spy on my client as Mr. Hyland exited the shower. This intrusion and other harassment by the property owners forced my client to seek assistance from the San Francisco Rent Board.

In his letter, Mr. Hall asserts that "qualified for SSI" is the appropriate standard for determining disability in this situation. He makes this assertion without citation to any legal authority and with an unsupported allegation that "historical precedent" supports that standard. To the contrary, both federal law (42 U.S.C. 12102), state law (California Government Code section 129260, and a San Francisco ordinance (San Francisco Administrative Code §12A.3(a)) define "disability" in a less draconian manner. However, since those definitions do not meet his client's purposes, Mr. Hall disregards these enactments in favor of a definition that would force my client from his home.

The property owners' ruthlessness in attempting to evict my client is shown in a discussion I had with Mr. Hall. He asserted that if my client did not "voluntarily" move out, his clients would attempt to increase my client's rent via "pass-thru" rent increases. These threats and the action of his clients show that the property owners want my client out at any cost and will do anything they can to achieve their goal.

Mr. Hall makes a great deal of parsing the language of the Subdivision Code to support his client's position. However, he ignores the big picture, which is that the property owners have harassed Mr. Hyland for years in an attempt to force him from his rent-controlled home. The proposed condominium conversion is merely another attempt by Mr. Hall's clients to expel my client from his home, so that they may make more money. The restrictions in the Subdivision Code are designed to prevent just this kind of victimization of the disabled; they should not be subverted to allow these property owners to evict my client from his home.

Sincerely yours,



James C. Driscoll
Attorney at Law

cc: Michael C. Hall, Esq.

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL jcdlawyer@jcdlaw.com

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SEP 20 2010
CITY & COUNTY OF S.F.
DEPT. OF CITY PLANNING
ADMINISTRATION

September 15, 2010

Mr. John Rahaim
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103-2479

Re: My Client Martin Hyland; 74 Castro Street, San Francisco

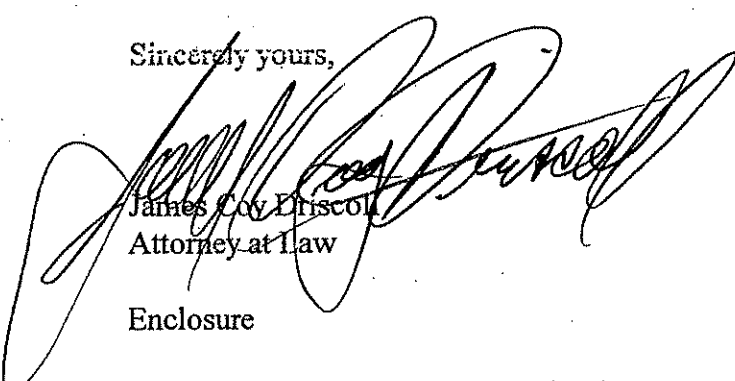
Dear Mr. Rahaim:

This is a follow up to my letter to you of September 3, 2010. Enclosed please find a letter from George Beatty, MD, my client's treating physician, regarding Mr. Hyland's HIV medical condition.

While the mere diagnosis of HIV infection is sufficient to establish disability, Dr. Beatty goes on to describe the disabling effects Mr. Hyland's condition has on my client.

Please contact me if you require further information.

Sincerely yours,



James Coy Driscoll
Attorney at Law

Enclosure

cc: Michael C. Hall, Esq., w/encl.



Department of Public Health

San Francisco General Hospital
Medical Center
1001 Potrero Avenue
San Francisco, CA 94110

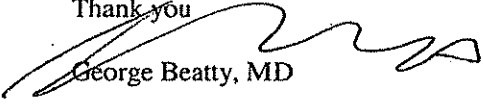
George Beatty, MD, MPH
995 Potrero Avenue
San Francisco, CA 94110

September 14, 2010

To Whom It May Concern:

Mr. Martin Hyland is under my care at the UCSF Positive Health Program at San Francisco General Hospital. I am writing to document that Mr. Hyland suffers from long-standing HIV infection and should be considered disabled from his disease. Maintenance of his health requires that he be as free from stress as possible, and that he comply with a complicated medication regimen. If he were uprooted from his long-standing stable housing arrangement, it would be detrimental to his overall health. Please take this into consideration.

Thank you


George Beatty, MD

City and County of San Francisco



Gavin Newsom, Mayor
Edward D. Reiskin, Director
Fuad S. Sweiss, City Engineer & Deputy Director for Engineering



(415) 554-5827
FAX (415) 554-5324
<http://www.sfdpw.com>

Department of Public Works
Bureau of Street-Use and Mapping
875 Stevenson Street, Room 410
San Francisco, CA 94103-0942

Barbara L. Moy, Bureau Manager
Bruce Storrs, City and County Surveyor

Date: July 30, 2010

Rent Stabilization and
Arbitration Board
25 Van Ness Avenue, Suite 320
San Francisco, CA 94102-6033

Project ID: 6175			
Project Type: 2 Units Condo Conversion			
Address#	Street Name	Block	Lot
74 - 76	CASTRO ST	2611	013
Tentative Map Referral			

Attention Richard Winn:

In accordance with Section 1359(d), 1396.1 and 1396.2 of the City and County of San Francisco Subdivision Code and pursuant to Section 1325 of the City and County of San Francisco Subdivision Code and Section 4.105 of the 1996 City Charter we are sending you the attached signed owners affidavit(s) for the above referenced condominium conversion application. Under the provisions of the Subdivision Code, your Department must respond to the Bureau of Street-Use and Mapping within 30 days of the date of this letter. Failure to do so constitutes automatic approval from your department. Thank you for your timely review of this Tentative Map.

Sincerely,

Marilyn Lopez for

Bruce R. Storrs, P.L.S.
City and County Surveyor
BRS/st

Enclosure:

☒ Signed Owners Affidavit(s)

This confirms that the Rent Stabilization and Arbitration Board has no record of any eviction since January 1, 1999 of a senior disabled or catastrophically ill tenant at this address. And has no record of any evictions since May 1, 2005 per San Francisco Administrative Code section 37.9(a)(8-14)

☒ There is record of an eviction at this address. See attached.

MZK2282

Date

8/3/10

Signed

RW

Richard Winn

Rent Stabilization and Arbitration Board

8/3/2010

74 Number	Castro Street Name	Street Suffix	Unit#	M2K2282 Case Number	11/13/00 File Date	OMI 37.9(i) Estoppel Filed? ☐
						Protected Status Claimed ☐
San Francisco City		CA State	94114 Zip			OMI Constraints Until ☐
				Rent Paid	Date:	

Additional 37.9C Relocation Claim Filed? ☐

Name (First, MI, Last)	Work Phone	Home Phone	Role
Martin Hyland			Tenant
Stephen Rick			Tenant
Bert Drews			Tenant
Michael C. Hall	(415) 512-9865		Landlord's Agent/Atty/Rep

- | | | |
|---|---|--|
| ☒ Non-payment of Rent | ☐ Ellis Act Withdrawal | ☐ Other |
| ☐ Denial of Access to Unit | ☒ Breach of Lease Agreement | ☐ Illegal Use of Unit |
| ☐ Substantial Rehabilitation | ☐ Owner Move In | ☐ Demolition |
| ☐ Habitual Late Payment of Rent | ☐ Roommate Living in Same Unit | ☐ Lead Remediation |
| ☐ Unapproved Subtenant | ☐ Nuisance | ☐ Failure to Sign Lease Renewal |
| ☐ Development Agreement | ☐ Condo Conversion | ☐ Capital Improvement |

Comments



Gavin Newsom, Mayor
 Edward D. Reiskin, Director
 Fuad S. Sweiss, City Engineer & Deputy Director for Engineering



(415) 554-5827
 FAX (415) 554-5324
<http://www.sfdpw.com>

Department of Public Works
 Bureau of Street-Use and Mapping
 875 Stevenson Street, Room 410
 San Francisco, CA 94103-0942

Barbara L. Moy, Bureau Manager
 Bruce Storrs, City and County Surveyor

Date: July 30, 2010

Human Rights Commission
 25 Van Ness Avenue, 8th Floor
 San Francisco, CA 94102-6033

Project ID: 6175			
Project Type: 2 Units Condo Conversion			
Address#	StreetName	Block	Lot
74 - 76	CASTRO ST	2611	013
Tentative Map Referral			

Attention Edward Ilumin:

In accordance with Section 1359(d), 1396.1 and 1396.2 of the City and County of San Francisco Subdivision Code and pursuant to Section 1325 of the City and County of San Francisco Subdivision Code and Section 4.105 of the 1996 City Charter we are sending you the attached signed owners affidavit(s) for the above referenced condominium conversion application. Under the provisions of the Subdivision Code, your Department must respond to the Bureau of Street-Use and Mapping within 30 days of the date of this letter. Failure to do so constitutes automatic approval from your department. Thank you for your timely review of this Tentative Map.

Sincerely,

Marilyn Lopez for

Bruce R. Storrs, P.L.S.
 City and County Surveyor

✓ This confirms that the Human Rights Commission has no record of any eviction since January 1, 1999 of a senior disabled or catastrophically ill tenant at this address. And as no record of any evictions since May 1, 2005 per San Francisco Administrative Code section 37.9(a)(8-14)

There is record of an eviction at this address. See attached.

Date

8/3/2010

Signed

Ed Ilumin

Edward Ilumin,
 Fair Housing Compliance Officer

Enclosure:

☒ Signed Owners Affidavit(s)



Gavin Newsom, Mayor
Edward D. Reiskin, Director



Phone: (415) 554-5827
Fax: (415) 554-5324
www.sfgov.org/dpw

Department of Public Works
Bureau of Street-Use and Mapping
875 Stevenson Street, Room 410
San Francisco, CA 94103

Fuad S. Sweiss, PE, PLS
City Engineer & Deputy Director of Engineering
Barbara L. Moy, Bureau Manager
Bruce R. Storrs, City and County Surveyor

August 24, 2010

James Coy Driscoll
2740 Van Ness Avenue Suite 300
San Francisco, CA 94109

Project ID:	6175		
Project Type:	2 Unit Condominium Conversion		
Address #	Street Name	Block	Lot
74 – 76	Castro Street	2611	013

Dear Mr. Driscoll:

Your request is currently under review, however additional documentation is required.

The definition of disabled per Section 1396.3 of the San Francisco Subdivision Code is as follows:

"...For purposes of this section . . . a "disabled" tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A)..."

In addition, Section 1391(c) requires that the tenant be permanently disabled. Please provide information that establishes permanent disability in accordance with Sections 1391(c) and 1396.3 of the San Francisco Subdivision Code. When we receive this additional information, we will work with relevant City departments to determine whether the requirements of the Subdivision Code have been satisfied.

Should you have any questions, please do not hesitate to call our office at (415) 554 – 5827 or email to Subdivision.Mapping@sfdpw.org.

Sincerely,

Bruce R. Storrs, PLS
City and County Surveyor
City and County of San Francisco

cc: Michael C. Hall Esq.
Aaron Hollister, City Planning

AB 2611 / 013

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL jcdlawyer@jcdlaw.com

September 3, 2010

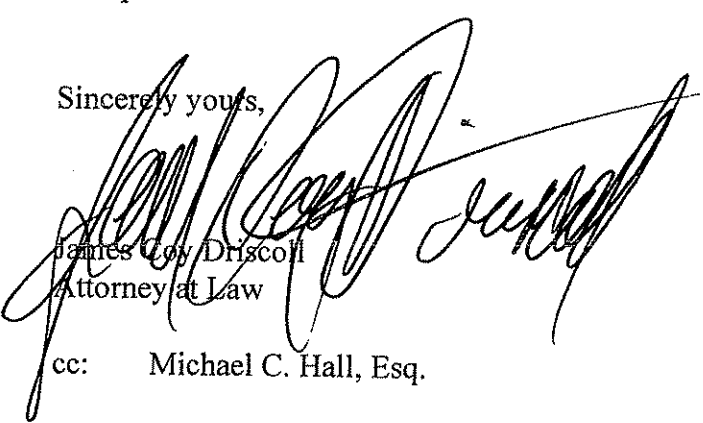
Bruce R. Storrs, PLS
City and County Surveyor
Bureau of Street Use and Mapping
San Francisco Department of Public Works
875 Stevenson Street, Room 410
San Francisco, CA 94103

Re: My Client Martin Hyland; 74 Castro Street, San Francisco; Project ID: 6175

Dear Mr. Storrs:

I am responding to your letter to me of August 24, 2010. My client has a diagnosis of HIV. Mr. Hyland is required to take a twice-a-day regimen of medications to stay alive. He has requested appropriate documentation from his treating physician; I will forward the same to you upon receipt.

Sincerely yours,


James Coy Driscoll
Attorney at Law

cc: Michael C. Hall, Esq.

LAW OFFICES OF
JAMES COY DRISCOLL
2740 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CALIFORNIA 94109

TELEPHONE (415) 673-6000
FACSIMILE (415) 673-6030
EMAIL jcdlawyer@jcdlaw.com

September 15, 2010

Bruce R. Storrs, PLS
City and County Surveyor
Bureau of Street Use and Mapping
San Francisco Department of Public Works
875 Stevenson Street, Room 410
San Francisco, CA 94103

Re: My Client Martin Hyland; 74 Castro Street, San Francisco; Project ID: 6175

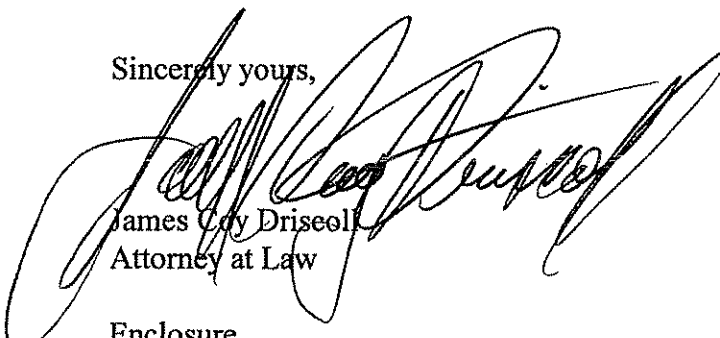
Dear Mr. Storrs:

This is a follow up to my letter to you of September 3, 2010. Enclosed please find a letter from George Beatty, MD, my client's treating physician, regarding Mr. Hyland's HIV medical condition.

While the mere diagnosis of HIV infection is sufficient to establish disability, Dr. Beatty goes on to describe the disabling effects Mr. Hyland's condition has on my client.

Please contact me if you require further information.

Sincerely yours,



James Coy Driscoll
Attorney at Law

Enclosure

cc: Michael C. Hall, Esq., w/encl.

1063-111
1063-111



Department of Public Health

San Francisco General Hospital
Medical Center
1001 Potrero Avenue
San Francisco, CA 94110

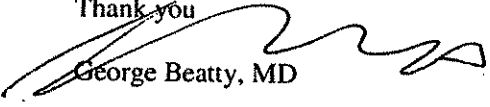
George Beatty, MD, MPH
995 Potrero Avenue
San Francisco, CA 94110

September 14, 2010

To Whom It May Concern:

Mr. Martin Hyland is under my care at the UCSF Positive Health Program at San Francisco General Hospital. I am writing to document that Mr. Hyland suffers from long-standing HIV infection and should be considered disabled from his disease. Maintenance of his health requires that he be as free from stress as possible, and that he comply with a complicated medication regimen. If he were uprooted from his long-standing stable housing arrangement, it would be detrimental to his overall health. Please take this into consideration.

Thank you


George Beatty, MD

10 SEP 17 11:04 AM
SF GH

Michael C. Hall
Francisco A. Gutierrez

M C HALL & ASSOCIATES
Attorneys at Law
605 Market Street, Suite 900
San Francisco, CA 94105
Tel: 415/512-9865
Fax: 415/495-7204
mhalllaw.com

Of Counsel:
Andres Sanchez
Donald L. Tasto
Allison L. Wang

September 16, 2010

By First Class Mail, copy by email

Mr. Bruce R. Storrs, PLC
City and County Surveyor
City and County of San Francisco
875 Stevenson Street, Ste. 410
San Francisco CA 94103

Re: 74-76 Castro Street Condominium Conversion

Dear Mr. Storrs:

The purpose of this letter is to clarify some points in Mr. Driscoll's September 3, 2010 letter regarding his request that the San Francisco Planning Commission disapprove the tentative map pursuant to Subdivision Code § 1386 on the ground that a permanently disabled person will be evicted as part of the conversion process.

As previously discussed in my letter of August 17, 2010, Mr. Driscoll's request the Planning Commission disapprove the tentative map pursuant to Subdivision Code § 1386 is based on a misapplication of that section.

Subdivision Code § 1386 requires denial of the tentative map if elderly or permanently disabled tenants have been evicted *for the purpose of preparing the building for conversion*.

When the City Planning Commission determines that vacancies in the project have been increased, or elderly or permanently disabled tenants displaced or discriminated against in leasing units, *or evictions have occurred for the purpose of preparing the building for conversion*, or if rents in the project over the previous 18 months preceding the date of filing the application have been increased substantially greater than any increase in the residential rent component of the "Bay Area Cost of Living Index, U.S. Dept. of Labor," (except for increases reasonably related to construction of Code-required capital improvements directly related to Code enforcement, or to recoup the costs thereof), or when the City Planning Commission determines that the subdivider has knowingly submitted incorrect information (to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code), the Tentative Map shall be disapproved...

Subdivision Code § 1393.2(a)(1) – (a)(3) lists the types of evictions that require the Department of Public Works to deny a tentative subdivision or tentative parcel map for residential condominium conversion. Under this section, the map *shall be denied* if:

(1) the building had two or more evictions with each eviction associated with a separate unit(s); (2) issuance of each eviction notice occurred on or after May 1, 2005; and, (3) issuance of the eviction notice(s) occurred pursuant to San Francisco Administrative Code Sections 37.9(a)(8), 37.9(a)(10), 37.9(a)(11), or 37.9(a)(13)¹.

Subdivision Code § 1963.2(b) applies this section to owner(s) of a building with one or more evictions if “the person(s) evicted was a senior, disabled, or catastrophically ill tenant and the issuance of the eviction notice occurred in accordance with the conditions of Subsections (a)(2) and (3)².”

The subject building is a two-unit building. Mr. Hyland has been a tenant since 1998, and *has never been issued an eviction notice*. The subdividers have not displaced or discriminated against protected tenants for the purpose of preparing the building for conversion. The subdividers have not impermissibly increased rents in the past 18 months preceding the application; the rent for the subject rental unit has periodically increased in accordance with the Administrative Code 37.3 permitted annual increases and code-related capital improvement increases approved by the Rent Board. The subdividers have not knowingly submitted inaccurate information.

Thus, *regardless of his disability status*, there is no basis to deny approval of the tentative map based on Section 1386. The only issue at this time is whether Mr. Fry and have ever Mr. Rascher evicted anyone protected under Sections 1396.2 or 1386 *for the purpose of preparing the building for conversion*. Accordingly, the possibility that a protected person may be evicted *after the conversion process is complete* is not one of the grounds for denial of the Tentative Map under any section of the Subdivision Code.

¹ These sections of the Administrative Code refer to the following types of evictions: 37.9(a)(8) [owner-occupied evictions], 37.9(a)(10) [evictions for removal or demolition of a single rental unit], 37.9(a)(11) [evictions for temporary removal from rental for repairs or improvements], and 37.9(a)(13) [Ellis Act evictions].

² For purposes of this Subsection, a “senior” shall be a person who is 60 years or older and has been residing in the unit for ten years or more at the time of issuance of the eviction notice; a “disabled” tenant is defined for purposes of this Section as a person who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a “catastrophically ill” tenant is defined for purposes of this Subsection as a person who is disabled as defined above, and who is suffering from a life threatening illness as certified by his or her primary care physician. Subdivision Code § 1963.2(b).

Moreover, the fact that Mr. Hyland may face eviction from his home *after* the conversion is not a reason to deny the tentative map under any provision of the Subdivision Code. Rather, the Subdivision Code and the Administrative Code both allow eviction after a condominium conversion.

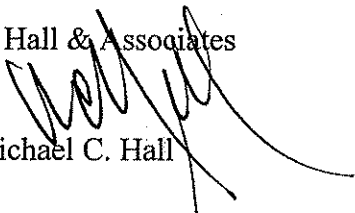
Administrative Code § 37.9(a)(9) provides for evictions in order to sell a unit *in accordance with a condominium conversion* approved under the San Francisco Subdivision Code, *provided the eviction is in good faith*. Subdivision Code § 1381(6)(A) requires that subdividers give written notice to all tenants including the right to receive relocation assistance and benefits, the right of all tenants to extend occupancy for a period of from one to three years depending upon length of prior occupancy, and the prohibition against rent increases during the process of conversion.” Subdivision Code § 1391 protects elderly and permanently disabled tenants from eviction *after* conversion by conferring a lifetime lease. Accordingly, Mr. Hyland has numerous legal protections in the event he is ever wrongly evicted from his unit.

Last, the owners are now aware of Mr. Hyland’s claim of permanent disability based on his HIV-positive status. When, and if, there is an eviction after conversion, the owners will provide Mr. Hyland with an opportunity to establish the full nature and extent of his disability. Thereafter, they will provide Mr. Hyland with all of the protection(s) to which he is entitled under the law at the time eviction is contemplated.

Very truly yours,

M C Hall & Associates

Michael C. Hall



Copy: Clients
Human Rights Commission
James Coy Driscoll

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

Date: Tuesday, January 4, 2011

Time: 4:00 p.m.

Location: Legislative Chamber, Room 250 located at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

Subject: File No. 101551. Hearing of persons interested in or objecting to the decision of the Department of Public Works dated November 30, 2010, approving a Tentative Parcel Map for a 2-unit condominium conversion located at 74-76 Castro Street, Lot No. 013, in Assessor's Block No. 2611. (District 8)
(Appellant: James Coy Driscoll on behalf of Martin Hyland)

Pursuant to Government Code Section 65009, notice is hereby given, if you challenge, in court, the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors at, or prior to, the public hearing.

In accordance with Section 67.7-1 of the San Francisco Administrative Code, persons who are unable to attend the hearing on these matters may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public records in these matters, and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to

mailed - 12/17/10

Angela Calvillo, Clerk of the Board, Room 244, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information will be available for public review on Thursday, December 30, 2010.



Angela Calvillo
Clerk of the Board

DATED: December 17, 2010

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Address	1 DR CARLTON B GOODLETT PL #244	Phone	4155547704
City	SAN FRANCISCO	Fax	4155547714
State - Zip	CA - 94102		

Product Information

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Order Information

Attention Name	Victor Young	Billing Reference No.	-
Ad Description	vy 74-76 Castro January 4, 2011	Sale/Hrg/Bid Date	-
Special Instructions	-		

Orders Created

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COPY OF NOTICE

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