

*TIC Owners Group
668-678 Page Street
San Francisco, CA 94117*

April 16, 2018

VIA HAND DELIVERY AND EMAIL

President London Breed
c/o Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Re: Condominium Conversion Subdivision Appeal
Case No.: 2017-013609CND
668-678 Page Street, San Francisco

Dear President Breed and Honorable Members of the Board of Supervisors:

This letter is respectfully submitted on behalf of the 668-678 Page Street TIC Owners Group (collectively, the “Appellants”). The Appellants seek reversal of the Planning Commission’s denial of a Condominium Conversion Subdivision at 668-678 Page Street, San Francisco (the “Application”). This letter addresses the findings made by the Planning Commission in Motion No. 20132, which was adopted on March 8, 2018.

The Application meets all requirements for condominium conversion under the California State Map Act and the San Francisco Subdivision Code, as the Planning Department’s Staff report dated January 11, 2018, found. However the Planning Commission was presented with incorrect and misleading claims by groups who seek to re-litigate issues that were decided by the San Francisco Superior Court in 2016.

I address the Planning Commission’s findings of inconsistency with section 1386, Article 9 of the San Francisco Subdivision Code, and the new arguments set out in the Planning Department’s memorandum dated April 13, 2018 (the “Appeal Memorandum”).

Finding 6(a):

This finding notes that in 2016, the Superior Court decision found that Iris Canada's life estate had ended because she no longer lived at 670 Page Street. The Planning Commission note that the Superior Court "granted Ms. Canada relief" to allow her to remain in her unit if she paid Plaintiffs' attorney's fees, and that her failure to do so resulted in her displacement. This is not accurate. The Superior Court decision dated June 8, 2016, which Motion No. 20132 refers to, has been taken out of context of the overall case. I offered to waive the payment of fees and allow Ms. Canada to return to live at 670 Page Street at no cost to her. However, against the advice of her own attorneys, this offer was not accepted (Declaration of Peter Owens dated April 13, 2018, para 15; Board of Supervisors "BOS" Exhibit 2, pp. 8-9).

Finding 6(b) & (d):

These findings allege that Ms. Canada was evicted from 670 Page Street, and that her displacement occurred for the purpose of preparing the building for conversion. This is also not correct. In 2002, Ms. Canada was granted a life estate so that she could remain in the building. Because the entire building was being removed from the rental market under the Ellis Act, it was not lawful for any part of the building to be leased to a tenant. Accordingly, I voluntarily granted Ms. Canada a life estate, which is an ownership interest that was recorded on the title for 668-678 Page Street. As a matter of law, an "owner" cannot be evicted from a property.

The Superior Court found in 2016 that Ms. Canada's life estate had ended because she was no longer living at 670 Page Street. The Court's judgment was issued after a hearing and presentation of evidence, including declarations from the Appellants, which proved that Ms. Canada no longer lived in the building. These declarations are attached to BOS Exhibits 1 and 2. The Planning Commission's finding that Ms. Canada "continued to be a tenant of the unit until February 10, 2017" is in direct contradiction to the Superior Court's findings. The Planning Commission did not identify the evidence it relied on in finding Ms. Canada was a tenant. The Appeal Memorandum refers to photos that allegedly show Ms. Canada "continued to reside in the unit until February 10, 2017," but does not attach these photos, or otherwise identify them.

The Appeal Memorandum advances a new argument in relation to the alleged increase in vacancies in the project. To wit, the memorandum claims that "Vacancies were increased on the property as a result of the forced removal of Ms. Canada's items from her unit." This is incorrect. It would be absurd to construe § 1386 to mean that the removal of items from a unit, rather than tenants, is sufficient to deny a condominium conversion. In any case, Ms. Canada was not evicted. The removal of her furniture occurred years after she moved out of the building, which terminated her life estate interest.

Finding 6(c):

The Planning Commission found that the subdivider submitted incorrect information to the City, because of a Discretionary Review application filed with the Planning Department on July 2, 2014 by the occupant of 678 Page Street. In that application, Ms. Canada was identified as an occupant of the building. The Discretionary Review applicant, Michel Bechirian, explained to the Planning Commission at the hearing on March 8, 2018, that when he filed the application in 2014, he had no reason to believe Ms. Canada was not returning to 670 Page Street (see Declaration of Michel Bechirian dated April 13, 2018). When the Appellants submitted the Application, there was no intention to mislead the Planning Commission or any other City agency.

Finding 6(e):

This finding largely summarizes findings 6(a)-(e), but I address it here for completeness. For the reasons set out above, the Planning Commission erred in finding that vacancies in the project have been increased, and that an elderly tenant was displaced within the three years preceding the Application. Ms. Canada had not been living at 670 Page Street from 2012. Further, finding 6(e) notes that “an eviction *or its equivalent* occurred for purposes of preparing the building for conversions” (emphasis added). No eviction occurred, and the words “or its equivalent” do not appear in Subdivision Code § 1386 as a basis for denial of a tentative map. Finally, the Appellants did not knowingly submit incorrect information to mislead or misdirect efforts by agencies of the City in the administration of the Subdivision Code.

Accordingly, the Application meets all state and local requirements for condominium conversion, and there is no basis in law or fact to deny the Appeal. The Appellants respectfully request that Planning Commission Motion No. 20132 be reversed.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter Owens', with a long horizontal flourish extending to the right.

Peter Owens