

File No. 091483

Committee Item No. _____

Board Item No. 29

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee _____

Date _____

Board of Supervisors Meeting

Date 01/12/10

Cmte Board

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

☐ ☐ Minor Sidewalk Encroachment Appeals for 77 O'Farrell and
48 Stockton Streets

☐ ☐ (Other materials were distributed to each member of the Board upon receipt by the
☐ ☐ Clerk's Office, and available in File No. 091483)

Completed by: Joy Lamug

Date 1/07/10

Completed by: _____

Date _____

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

99

Marshall C. Wallace
Direct Phone: +1 415 659 4872
Email: MWallace@reedsmith.com

Reed Smith LLP
101 Second Street
Suite 1800
San Francisco, CA 94105-3659
+1 415 543 8700
Fax +1 415 391 8269

December 1, 2009

VIA HAND DELIVERY AND FACSIMILE

City and County of San Francisco
Board of Supervisors
Attn: Ms. Angela Cavillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

RE: Appeal of Revocation of Minor Sidewalk Encroachment Permit 06 MSE-0181

To The Board of Supervisors:

On behalf of Stockton Street Properties, Inc. ("SSP"), the owner of 48 Stockton Street in San Francisco, we submit SSP's appeal of the City of San Francisco Department of Public Works' ("DPW's") November 16, 2009 attempted revocation of Minor Sidewalk Encroachment Permit 06MSE-0181 (the "Permit"), regarding the sub-sidewalk area at Lot 3, Block 328 of the City, commonly known as 48 Stockton Street. [Copy attached as Exhibit A] As set forth more fully below, SSP appeals the DPW's action, including the DPW's demand that SSP vacate the property by February 1, 2010, on the following grounds: (1) SSP owns the sub-sidewalk area purportedly covered by the Permit, so the DPW could not and did not validly issue or revoke the Permit; (2) to the extent the Permit sought to claim ownership of the sub-sidewalk area, the DPW exceeded its jurisdiction in issuing and revoking the Permit; (3) the purported revocation, if implemented, would constitute a taking of the sub-sidewalk area in violation of the U.S. and California Constitutions; (4) the DPW violated SSP's due process rights by failing to provide SSP with adequate notice of the purported revocation and an opportunity to be heard, and; (5) the DPW is estopped from issuing, recognizing and revoking the Permit. Each of these grounds

justifies granting SSP's appeal, reversing the revocation, nullifying the Permit, and acknowledging SSP's rights to possession and ownership of the sub-sidewalk area.

I. FACTUAL BACKGROUND

The DPW's November 16 notice allowed SSP only 15 calendar days – and, given the Thanksgiving holiday, only 9 working days – to review the notice, research the facts, and prepare this appeal. Accordingly, SSP has not had the opportunity to gather all the facts, and this appeal is necessarily summary in presentation. SSP reserves the right to present additional documents, facts and grounds for the appeal and its challenges to the City's attempted conduct.

We also note that representatives (chiefly engineers) of SSP and its tenant, Barneys, Inc. ("Barneys"), are in parallel with this appeal meeting with representatives of the City in an attempt to informally resolve the issues raised by the DPW's notice and the City's broader efforts to displace SSP and Barneys from the sub-sidewalk areas as part of the Central Subway Project. SSP hopes those discussions will be fruitful, and will moot this appeal. At the same time, however, these issues are very important to SSP and Barneys, both of whom will vigorously and earnestly protect their property rights.¹

¹ These meetings are taking place as settlement negotiations. All participants have been encouraged to engage in free exchange without fear their statements will later be used against them. SSP, Barneys and the City therefore have agreed not to use any statement or documents in those meetings as evidence. In accord with that agreement, we will not do so in this appeal.

A. **The City Has Long Recognized That Sub-Sidewalk Areas Belong To The Adjoining Property Owner**

SSP is the owner of property located at the corner of Stockton and O'Farrell streets, commonly known as 42-48 Stockton, also known as 77 O'Farrell Street (the "Property").² Barneys and Ghirardelli Chocolate Company are the tenants currently occupying the building located on the Property (the "Building"); for years before that, FAO Schwartz occupied the Building.

As is common with many retail buildings in San Francisco, portions of the Property's basement lie below the O'Farrell and Stockton Street sidewalks. The Building was erected in 1907 in the immediate aftermath of the 1906 earthquake. In recognition of the damage wrought by the earthquake, and to encourage prompt reconstruction, the City granted major incentives to those private property owners who were willing to invest the capital to rebuild. To ensure the property owners had the best chance of financial success, the City agreed that the property owners had exclusive and virtually unrestricted use of the property beneath the sidewalks adjoining their property. In accord with such an agreement, in 1907 the owners of the Property -- with full approval and encouragement of the City -- excavated and improved the sub-sidewalk area of the Property so as to increase the Building's usable square footage. Improvements included vaulting of ceilings and construction of walls around a sub-sidewalk basement to stabilize and support the above sidewalk and the City's adjoining Stockton and O'Farrell Street right-of-ways. In reliance on their agreement with the City, over time, the Property's owners constructed the Building's utilities, including electrical, water, life safety and sewer, in the

² The Permit and the DPW's revocation notice pertain only to Lot 3, Block 328, which is 42 Stockton Street, presently housing a Ghirardelli store. The Permit and the notice also refer to 77 O'Farrell, which is the street address for the property leased to Barneys. That property is Lot 4 of Block 328, which is not mentioned in the Permit or the notice. SSP understands this discussion to apply to the entire frontage of 42-48 Stockton and 77 O'Farrell. SSP reserves the right to modify its position in this regard if warranted by further development of the facts.

sidewalks and sub-sidewalk areas, and have used the sub-sidewalk areas for storage, retail space, and other active uses in conjunction with the Property.

After the sub-sidewalk area was improved, the City and the Property owners continued to perform their agreement. The Property owner was responsible for maintaining the sub-sidewalk area and improvements, as well as the sidewalks above. Over the past century, the successive Property owners accordingly have maintained and replaced the sidewalks; continued shoring the sidewalks and the walls supporting Stockton and O'Farrell Streets; maintained, improved and replaced the utilities; and otherwise continued their active and exclusive use and occupancy of the sub-sidewalk areas.

During the past century, the City actively encouraged and supported the Property owners' exclusive use and possession of the sidewalks and sub-sidewalk areas. Over that time, the City's engineering, planning and building inspection representatives all visited, inspected, orally approved and permitted the sidewalk, the sub-sidewalk space, and the improvements in that space. Relevant permitting documents are attached as Exhibit B. Collectively, they demonstrate that the City and its departments have been fully aware of, and supportive of, the active and exclusive use and occupancy of the sub-sidewalk area for decades. We expect to augment these records to show similar treatment by the City for the entire century the Building has been in existence.

B. The City's Recent Change In Tune Due To The Central Subway Project

This basic approach of mutual benefit and collaboration between the City and the owners of the Property continued uninterrupted, right through the middle of this decade. But, it now appears that things have changed at the City. In the 1990s, the City began the Third Street Light Rail Project, linking the Southeast quadrant of the City with the South of Market area. In 2003, the City began preliminary engineering studies on Phase 2 of this effort – the Central Subway Project. Throughout the

middle of this decade, government agencies including the City were evaluating alternatives for the Central Subway. Evidently, at some point in that process, the City and other agencies identified Stockton Street as the preferred alternative, and recognized that they would need the sub-sidewalk areas along much of Stockton Street for their new desired alignment. That recognition apparently caused the City to, for the first time in nearly a century, change its interaction with the owners of the sub-sidewalk areas. The City for the first time began to ask for encroachment permits for work being done in the sub-sidewalk areas. And the City also appears to have added new language to the Public Code and the Building Code specifically targeting sub-sidewalk basements. *See, e.g.*, S.F. Pub. Works Code § 723.3, S.F. Bldg. Code 106A.1.3.

C. In 2007 The City For The First Time Requires An Encroachment Permit, But Does Not Obtain One From An Authorized Source.

In or around June 2006, SSP leased the Property, including the sub-sidewalk areas, to Barneys. Barneys sought to further improve the Property's basement. Based on the decades of extensive use and City approvals described above, Barneys and SSP agreed that Barneys' renovation of the basement should maximize use of the sub-sidewalk areas. It appears that Barneys permitting consultant, A.P. Sanchez-Correa & Associates, approached the City and – for the first time ever – was told that Barneys needed a "Minor Sidewalk Encroachment Permit" to further improve the Property's sub-sidewalk basement. Because that consultant was in the business of getting permits, on or around January 18, 2007, Sanchez-Correa employee Patrick Otellini unquestioningly applied for a Minor Sidewalk Encroachment Permit and a building permit. Unfortunately, he never checked with SSP. Declaration of Art Fong ("Fong Decl."), ¶ 2. Instead, he applied for the Encroachment Permit without SSP's knowledge or consent. *Id.* Thus, the Permit Application does not bear the signature of SSP or its authorized agent. Mr. Otellini was not authorized to sign for SSP, and neither he nor Barneys told SSP that the City was asking for such a permit. Nonetheless, the DPW granted the Permit. *See* Exhibit B. Like the application, neither SSP nor its authorized agent signed the Permit itself. Fong Decl. at ¶ 2. In

fact, SSP did not learn of the Permit nearly two years later, when the City provided SSP with a copy of that document. *Id.* at ¶ 4.

D. Barneys Spends Millions Of Dollars To Improve The Sub-Sidewalk Areas.

Barneys building and Encroachment Permit applications contained detailed plans evidencing Barneys' intent to spend millions of dollars to renovate the sub-sidewalk areas. It now appears that at the time the City approved the Permit, the City's Municipal Transportation Authority ("SFMTA") expected that it would soon be seeking to displace Barneys from the sub-sidewalk area along Stockton Street to make way for the Central Subway project. Did the City have a candid dialogue with Barneys or SSP about why it wanted an encroachment permit? Did it reveal SFMTA's short-term plan to displace Barneys and SSP from the sub-sidewalk area, seek to force Barneys to remove its improvements, and demand that SSP remove its utilities? It did not. Instead, the City remained silent. Barneys proceeded to incur millions of dollars to renovate the sub-sidewalk areas while the City stood by.

E. Without Providing Notice Or Opportunity To Be Heard, The DPW Revoked The Permit And Ordered SSP To Vacate The Sub-Sidewalk Areas.

In October 2008 – little more than a year after Barneys had improved the sub-sidewalk area – the SFMTA informed SSP that it intended to request that the City to revoke the Permit. After more than a year of delay, and without any notice of any hearing or opportunity for SSP or Barneys to participate, on November 16, 2009, the DPW sent SSP a letter indicating that it had revoked the Permit. Exhibit A. The letter attached and referenced only an incomplete version of the Permit and the Permit application. *Id.* The DPW did not provide either Barneys or SSP any notice that it was determining whether to revoke the permit; it did not, apparently, hold a hearing regarding its decision; and it did not provide SSP or Barneys with an opportunity to be heard or to present evidence. There are no fact findings supporting the DPW's action. From the scant information provided in the DPW's letter, it

appears that the only information in the “record” that the DPW relied upon was the incomplete Permit and the unauthorized Permit application.³

The DPW’s notice also demands that Barneys vacate the entire sub-sidewalk area and, implicitly, rip out and relocate all improvements, no later than February 1, 2010. Once again, Barneys and SSP did not have notice that the DPW would be issuing this edict; the DPW did not hold a hearing regarding this action; the DPW did not consult with SSP or Barneys regarding what would be involved in having to vacate the space and relocate all the improvements; the DPW did not provide SSP or Barneys with an opportunity to be heard or to present evidence; and there are no fact findings supporting the DPW’s action.

II. GROUND FOR APPEAL

The following are grounds on which SSP objects to, and appeals, the issuance of the encroachment permit, the attempted revocation of the encroachment permit, and the demand that Barneys and SSP vacate the sub-sidewalk area and relocate all of the improvements in the sub-sidewalk area. As previously stated, SSP reserves the right to object and appeal on additional grounds and to provide additional evidence.

A. SSP, Not The City, Has The Right To Exclusive Use And Possession Of The Sub-Sidewalk Area At The Property

SSP objects to the purported revocation and the attempt to displace SSP and Barneys from the sub-sidewalk area on the ground that SSP owns the sub-sidewalk area and that SSP and its

³ SSP has requested the City’s files related to the Property, but has been told they are “in storage” and will take several days to retrieve. In light of the Thanksgiving Holiday, SSP has not obtained access to many of the documents that establish its ownership in the Property until after its deadline to file this Appeal.

tenant, Barneys, are entitled to the exclusive use and occupancy of that area. Based upon the original agreement of the City and the owner of the Property in 1907, and the ensuing century of conduct of all owners, all tenants and the City and its agencies consistent with that agreement, SSP owns, and it and its tenants (presently Barneys) are entitled to exclusive use and possession of the sub-sidewalk area at the Property. The City is estopped to deny that ownership and right to exclusive use and possession.

Given SSP's right to exclusive use and possession of the sub-sidewalk area, the City and the DPW were without authority or power to issue an encroachment permit to that area, and the Permit was and is a nullity. An attempt to revoke a non-existent Permit is, of course, also a nullity. Accordingly, the Board should grant SSP's appeal, and declare the Permit, and the purported revocation of the Permit, to be without effect.

If the City and the DPW do not promptly withdraw their purported Minor Encroachment Permit and attempted revocation of that permit, SSP will be filing a lawsuit seeking, among other things, a judgment quieting title to the sidewalk and sub-sidewalk areas, declaratory relief, cancellation of the Permit and the revocation notice, and an injunction against any attempt to displace SSP or Barneys from the sub-sidewalk area.

B. The DPW Lacked Jurisdiction To Determine That The City Owns The Sub-Sidewalk Areas And, Therefore, Lacked Jurisdiction To Revoke The Permit.

Implicit in the DPW's attempt to issue an encroachment permit and then to revoke that permit is the determination – without notice, hearing or any other due process – that the City owns the sub-sidewalk area. Administrative agencies “have only such powers as have been conferred on them, expressly or by implication, by constitution or statute” and cannot act outside of these powers. *Ferdig v. State Personnel Bd.*, 71 Cal. 2d 96, 104 (1969). A decision of an agency acting outside of its jurisdiction is void. *See Buckley v. California Costal Comm.*, 68 Cal. App. 4th 178, 190-91 (1998).

Under California law, a court is the only body that has the jurisdiction to determine ownership of property. *See* Cal. Civ. Proc. Code § 760.040. *See also, City of Long Beach v. Mansell*, 3 Cal. 3d 462, 488 (1970) (“The question of the actual existence and dimensions of such a public interest [in the land], and therefore the question of whether the state and city may be permitted to assert it, would properly arise only in a trial of title. Nothing in the Public Works Code, or any other part of the San Francisco Municipal Code, provides the DPW, or any other City agency or body – with authority to determine respective ownership interests in a piece of land. To the contrary, any issues of ownership must be adjudicated in the Superior Court. *Id.* Cal. Civ. Proc. Code § 760.040.

Accordingly, the DPW did not have the power or the jurisdiction to issue a permit for the sub-sidewalk area or to revoke a permit to that area. The DPW’s attempted permit and revocation are without legal effect, so the Board should grant the appeal, and declare the Permit, and the purported revocation of the Permit, null and void, on the ground of lack of jurisdiction.

C. **The Permit Is Invalid As To SSP Because It Was Not Signed By SSP Or Its Authorized Representative.**

The Permit, and, therefore, the attempted revocation of that permit and attempt to displace SSP, are further invalid because the Permit never was properly issued to SSP. To the contrary, the DPW issued the Permit in clear violation of Public Works Code Section 723.2(e). That statute states, in pertinent part: “**Each permit issued under the provisions of this Section shall not become effective until the permit has been signed by the owner or the owner’s authorized agent...**” *Id.* (emph. added).

The record here does not support the DPW’s revocation of the Permit because the Permit was never signed by the SSP or its authorized agent. Instead, the DPW apparently relies upon the Permit Application. But that Application was signed by Patrick Otellini of Sanchez-Correa &

Associates. Sanchez-Correa was the Lessee's (Barneys) agent, not the owner's agent. Fong Decl., ¶ 3. Neither Mr. Otellini nor Sanchez-Correa was engaged or authorized by SSP regarding the work in the sub-sidewalk area in 2006-2007. No one at SSP ever authorized the Permit application, let alone the Permit itself. *Id.* To the contrary, SSP was unaware of the Permit until the City produced a copy in connection with this dispute. Because SSP never signed the Permit, it is a nullity, and the DPW may not revoke it. The Board should grant the appeal and reverse the Permit and its purported revocation on this ground as well.

D. The Permit Revocation And Any Displacement Of SSP Or Barneys From The Sub-Sidewalk Area Would Constitute A Taking In Violation Of The U.S. And California Constitutions.

The appeal must be granted, and City's attempt to displace SSP and Barneys from the sub-sidewalk area should be rejected, on the further ground that, if SSP and Barneys is displaced it will constitute a taking of property without just compensation in violation of the United States and California Constitutions. U.S. Const. Amend. V; Cal. Const. Art. I, § 19; Cal. Civ. Proc Code §§ 1230.010, *et seq.* A municipality may not attempt to acquire property from a private citizen by conditioning approval of a permit on a grant of land or an easement. *Nollan v. California Coastal Commission*, 483 U.S. 825, 837-40 (1987) (City's conditioning of building permit on property owner's granting of public easement over land would constitute a taking under the Constitution where the development ban requiring the permit did not serve the same governmental purpose as the permit condition). That is precisely what the DPW is attempting to do here. If the City is allowed to summarily displace SSP and Barneys from their property (the sub-sidewalk area) it will have effectuated a taking of that property without following any of the required procedures (Cal. Civ. Proc. Code §§ 1230.010 *et seq.*) and without constitutionally required payment of just compensation. The Board should reverse the purported revocation and cancel the Permit for this reason as well.

E. The DPW Revoked The Permit Without Providing Notice Or Opportunity To Be Heard.

The DPW's revocation of the Permit also violated SSP's due process rights because the DPW did not provide SSP with adequate notice or an opportunity to be heard.

When a private entity spends substantial sums to carry out the intended purpose of a permit, a municipality may not revoke the permit without providing notice and opportunity to be heard. *Trans-Oceanic Oil Corporation v. City of Santa Barbara*, 85 Cal. App. 2d 776 (1948) (Where holder of permit to drill oil well within city limits had acquired vested right to drill well by virtue of expenditures made in preparation for drilling, city's attempted revocation of permit without notice or hearing constituted a deprivation of permit holder's property in contravention of state and federal constitutions.). Here, as the DPW knew full-well, Barneys spent millions of dollars improving the sub-sidewalk areas in reliance on the Permit. Nonetheless, the DPW did not provide Barneys or SSP with an opportunity to be heard on the revocation. By failing to provide SSP with notice or an opportunity to be heard, the DPW decision violated SSP's due process rights, so the revocation should be reversed.

F. The DPW Is Estopped From Revoking The Permit.

Even if the DPW properly issued the Permit, which it did not, it is estopped from revoking the permit because, for 100 years, it induced SSP, and the Property's previous occupants to improve and maintain the sub-sidewalk areas with representations that the Property's occupants would have exclusive and unimpeded use and occupancy of that space.

California courts have long held that public agencies may be estopped from taking certain actions. *Long Beach v. Mansell*, 3 Cal. 3d 462, 496-497 (1970). *See also, Shoban v. Board of Trustees of Desert Center Unified School Dist.*, 276 C.A. 2d 534, 544 (1969) (school district estopped from reducing teachers' salaries where teachers rendered services in reliance on district's and

superintendent's representations); *Sawyer v. San Diego*, 138 Cal. App. 2d 652, 662 (1956) (city estopped from discontinuing water service where it had supplied subdivision with water for many years and homes had been built in reliance on that supply). In articulating this rule, the Supreme Court stated:

The government may be bound by an equitable estoppel in the same manner as a private party when the elements requisite to such an estoppel against a private party are present and, in the considered view of a court of equity, the injustice which would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy which would result from raising the estoppel.

[*Long Beach v. Mansell*, 3 Cal. 3d 462, 496-497 (1970)]

In *Long Beach* the Court applied this rule and found that the city was estopped from claiming ownership over certain real property. *Id.* Likewise, in *City of Imperial Beach v. Algert*, 200 Cal. App. 2d 48, 53 (1962), the Court held that the city was estopped from asserting a parcel was a public street after the city had, for 12 years, acted as if it did not own the property. The court determined that, based on the totality of the circumstances, the interests of justice required the use of estoppel. *Id.* Whether estoppel exists in any case is a fact intensive inquiry and should not be adjudicated until parties have had a full and fair opportunity to gather and present all relevant facts. *Noble v. Merchants Nat'l Realty Corp.*, 248 Cal. app. 2d 48, 52 (1967).

The facts here exemplify the circumstances in which estoppel should be employed against a public agency. For 100 years, the City has acted consistent with the ownership by the adjoining building owner of the sub-sidewalk area. In reliance on the City's affirmative conduct, and absence of any claim to the sub-sidewalk areas, SSP and its predecessors in interest purchased, improved, and maintained the sub-sidewalk areas as the owners of that space. Accordingly, SSP and its predecessors in interest paid more than they otherwise would have for the Property and spent substantial sums to run utilities through the sub-sidewalk areas and otherwise improving that space. Further, SSP and previous owners leased the sub-sidewalk areas to third parties such as Barneys. The first time the

City ever suggested it owned this property was when it imposed an unlawful condition in approving Barneys' 2007 Minor Sidewalk Encroachment Permit application. In approving that application, the DPW induced Barneys to spend millions to perform improvements that the DPW knew would have to be destroyed almost immediately due to the Central Subway Project. Allowing the DPW to revoke the permit despite these facts would result in manifest injustice. Therefore, the DPW should be estopped from doing so. *See City of Imperial Beach*, 200 Cal. App. 2d at 53.

This is yet another independent ground why the Board must grant the appeal, reverse the revocation of the permit, and cancel the permit.

G. The DPW Abused Its Discretion By Failing To Consider Less Burdensome Alternatives.

Similarly, having caused Barneys, SSP, and previous owners to spend millions improving the sub-sidewalk areas, the DPW abused its discretion in revoking the Permit without considering less burdensome alternatives. Rather than summarily seeking to displace SSP and Barneys, the DPW should have worked with the SFMTA to construct the Central Subway project in such a way so as to eliminate the need to take on the sub-sidewalk areas from SSP and Barneys. Its failure to do so constitutes an abuse of discretion.

III. CONCLUSION

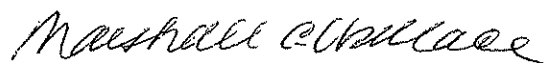
SSP regrets that the precipitous conduct of the DPW has brought this issue to the brink on such short notice, forcing SSP to file this appeal. Despite that unfortunate approach, SSP will continue to work with the City to reach a negotiated solution. If such a solution cannot be reached, however, SSP will proceed to the hearing of this appeal with the hope and expectation that the Board will recognize its legitimate rights and claims, reverse the decision by the DPW and allow the City and SSP to resolve these issues in the appropriate forum.

Board of Supervisors
City and County of San Francisco
December 1, 2009
Page 14

ReedSmith

If you have any questions regarding the foregoing, please do not hesitate to contact us or
SSP.

Sincerely,

A handwritten signature in cursive script that reads "Marshall C. Wallace".

Marshall C. Wallace

MCW:
enclosures

US_ACTIVE-102740669.4

EXHIBIT A

City and County of San Francisco



Gavin Newsom, Mayor
Edward D. Reiskin., Director



Phone: (415) 554-6920
Fax: (415) 554-6944
TDD: (415) 554-6900
<http://www.sfdpw.org>

Department of Public Works
Office of the Director
City Hall, Room 348
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4645

November 16, 2009

Stockton Street Properties
Attn: Kathleen Bergi-Sanell
909 Montgomery Street, Suite 200
San Francisco, CA 94133

Subject : Minor Sidewalk Encroachment Permit 06MSE-0181
Property Block No. 328 lot 003
77 O'Farrell Street
San Francisco, CA 94108

Dear Ms. Bergi-Sanell:

The San Francisco Municipal Transportation Agency (SFMTA) is currently developing plans for the Central Subway Project. The project will include construction of a subway station on Stockton Street and Ellis Street. In order to construct this station, SFMTA will require permanent use of the area occupied by the subsidewalk encroachments below the public right-of-way along the alignment of the Central Subway Project.

The SFMTA has advised that the encroachment covered by your Minor Sidewalk Encroachment Permit Number 06MSE-0181, issued on January 23, 2007, impedes or otherwise impacts the Central Subway Project. The purpose of this letter is to advise you that the Minor Sidewalk Encroachment Permit issued for your property located at 77 O'Farrell Street (Block No. 328 lot 003) is hereby revoked. Pursuant to Public Works Code Section 723.2, you have the right to appeal this revocation decision. Such appeal must be filed within 15 days from the date of this letter. You may appeal this decision by filing a notice to:

City and County of San Francisco Board of Supervisors
Attn: Ms. Angela Calvillo, Clerk of the Board
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689.

Exhibit A of your Minor Sidewalk Encroachment Permit sets forth the conditions applicable to your permit. Pursuant to paragraph 8 of Exhibit A, upon notification of the revocation of your Minor Sidewalk Encroachment Permit, you must remove, or cause to be removed, the encroachment and all the materials in connection with its construction and restore the encroachment area to a condition satisfactory to the Department of Public Works. The purpose


of this letter is to advise that the encroachment must be restored to a condition satisfactory to the Department of Public Works, without expense to the City and County of San Francisco, by February 1, 2010.

If you are unable to restore the encroachment by February 1, 2010, you may petition the Department of Public Works for an extension. Please submit a written extension request along with abandonment plans and a detailed completion schedule to the Department of Public Works for approval no later than December 7, 2009. In the event that you have already applied for a building permit for the above referenced work, submission of an abandonment plan will not be required. Instead, please submit such application, plans and detailed completion schedule to the Department of Public Works by December 7, 2009.

If the encroachments associated with the permit are not removed and the site is not restored by February 1, 2010, or such other date approved in writing by the Department of Public Works, any improvements present in the encroachments may be considered a public nuisance and may be abated pursuant to Section 723.3 of the San Francisco Public Works Code as recently amended by Board of Supervisors Ordinance No. 210-09. A Copy of the Ordinance is attached.

Should you have any questions concerning this matter, please contact David Greenaway of the SFMTA. Mr. Greenaway can be reached at (415) 701-4237.

Sincerely,


Edward D. Reiskin
Director of Public Works

Attachments

EXHIBIT B

Recording Requested by and
When Recorded Return To:

A. R. SANCHEZ-GREA & ASSOC.
301 JUNIPERO SERRA #270
SF, CA 94127



San Francisco Assessor-Recorder
Phil Ting, Assessor-Recorder
DOC- 2007-1321572-00

Check Number 10086

Friday, JAN 19, 2007 12:46:41

Ttl Pd \$13.00

Nbr-0003157417

REEL J310 IMAGE 0465

okc/KC/1-3

DECLARATION OF USE

I/WE PATRICK OTELLINI, OWNER/AUTHORIZED AGENT OF THE
HEREIN DESCRIBED PROPERTY COMMONLY KNOWN AS:

77 OFARRELL ST

SAN FRANCISCO, ASSESSOR'S BLOCK 0328, LOT 003

HEREBY CONSENT TO THE WITHIN DESCRIBED CONDITIONS THAT APPEAR ON
EXHIBIT "A" ATTACHED:

Minor Sidewalk Encroachment

Permit # 06MSE-0181

(SIGNED)

PATRICK OTELLINI
OWNER/AUTHORIZED AGENT

DATE OF EXECUTION: 1/19/07

STATE OF CALIFORNIA)

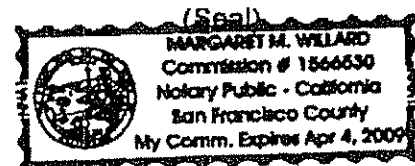
) SS.

COUNTY OF SAN FRANCISCO)

On January 19, 2007 before me, Margaret M. Willard Notary Public in and
for said County and State, personally appeared Patrick Otellini
personally known to me (or proved to me on the basis of satisfactory evidence) to be
the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal

Signature

Margaret M. Willard



Department of Public Works

EXHIBIT "A"



Bureau of Street-Use and Mapping

Division of Street-Use Permits

PERMIT TYPE	Minor Sidewalk Encroachment
PERMIT NO.	06MSE-0181
LOCATION	77 OFARRELL ST
ZIP 94108	BLOCK NO. 0328 LOT 003

Pursuant to Article 15, Section 723.2 of the Public Works Code, permission revocable at the will of the Director of Public Works is granted to:

PROPERTY OWNER(S) OF RECORD-FULL NAME(S) AS RECORDED:

Name: STOCKTON STREET PROPERTIES

Address: 660 DAVIS ST
SAN FRANCISCO, CA 94111

Phone:

APPLICANT, AGENT OF OWNER:

Name: A.R. Sanchez-Corea & Associates, Inc.

Address: 301 Junipero Serra Blvd., Suite 270
San Francisco, CA 94127

Phone: (415) 333-8080

TO OCCUPY, CONSTRUCT AND MAINTAIN THE FOLLOWING ENCROACHMENT(S):
subsidewalk basement; door swings; elevator door

CALL FOR INSPECTION 72 HOURS PRIOR TO STARTING WORK AND POURING CONCRETE 554-7149

THE PERMITTEE HEREBY AGREES TO COMPLY WITH ALL
REQUIREMENTS NOTED ON THIS PERMIT

Signature of Owner(s) of Record or
Authorized Agent of Owner(s) or Record

Date

APPROVED:

Fred V. Abadi, Ph.D.
Director of Public Works

DISTRIBUTION

Outside B.S.M.
Dept. of Parking Traffic - H. Quan
Inside B.S.M.
1660 Mission - Tania Troyan
Inspector - M.E. Casey

By: [Signature]
Plan Checker

Date:

(415) 554-5810 FAX (415) 554-6161

875 Stevenson St. Rm. 460

San Francisco 94103-094

EXHIBIT "A"

REVOCABLE PERMIT IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS

1. The permittee shall verify the locations of any City or public service utility company facilities and shall assume all responsibility for any damage to such facilities due to the work authorized under this permit.
2. The construction and maintenance shall be where and as shown on the plans submitted, revised and filed in the Department of Public Works.
3. The permittee shall obtain a building permit at the Department of Building Inspection, 1660 Mission Street for the construction or alteration of any building.
4. The permittee shall contact the Street Improvement Inspectors, 554-7149, at least 48 hours prior to starting work to arrange an inspection schedule.
5. The permittee shall submit to the Bureau of Street-Use and Mapping a non-refundable fee of \$200 for investigation and inspection, made payable to the Department of Public Works. All Minor Sidewalk Encroachment Permits shall be notarized and recorded at 875 Stevenson Street, First Floor.
6. The permittee or subsequent owner or owners recognize and understand that this permit may create a possessory interest subject to property taxation and that the permittee or subsequent owner or owners may be subject to the payment of such taxes.
7. The permittee shall acknowledge his obligation to inform subsequent owners or owner of the responsibilities of this permit.
8. The permission granted by this order is merely a revocable license. The Director of Public Works may revoke said permission at will, and upon revocation thereof, the undersigned permittee, subsequent owners, or their heirs and assignees will within 30 days remove or cause to be removed the encroachment and all the materials used in connection with its construction, without expense to the City and County of San Francisco, and restore the area to a condition satisfactory to the Department of Public Works.
9. The permittee or subsequent owner or owners recognize the recordation of this permit.
10. In consideration of this Permit being issued for the work described in the application, Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.
11. Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by, or negligence of, Permittee or its subcontractors, or the officers, agents, or employees of either, while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, good will, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.
12. Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.
13. Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any work done under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.
14. The permittee and any permitted successor or assign recognize and understand that this permit may create a possessory interest

City and County of San Francisco



Department of Public Works
Bureau of Building Inspection

450 McAllister Street
San Francisco, CA. 94102

48 STOCKTON ASSOCIATES LTD
% JAYMONT PROPERTIES INC
88 KEARNY ST #1450
SAN FRANCISCO CA
94108

February 3, 1993

PROPERTY ADDRESS: 79 OFARRELL ST
BLOCK:0328 LOT:004

FEB - 5 1993

Dear Property Owner:

Senate Bill 547 was adopted by the State Legislature in 1985 and required that cities conduct a survey of all masonry buildings and identify all hazardous buildings. Hazardous masonry buildings are generally those constructed without the benefit of reinforcement in the masonry and are called unreinforced masonry buildings (UMB's).

The City of San Francisco concluded its survey in 1986 and determined that the building identified above is an unreinforced masonry building. UMB's have been identified as being hazardous in the event of an earthquake and have a strong likelihood of failing by walls collapsing or by the entire building collapsing.

In 1992, the Board of Supervisors adopted Ordinance No. 225-92 which requires: that all owners of UMB's be notified of this potential hazard; that an Inventory Form (see attached) be prepared by a licensed Civil Engineer, Structural Engineer or Architect and be submitted within one year of this notice; that once the hazard class is identified, the building be seismically upgraded per the requirements of Ordinance No. 225-92; and that the seismic upgrade take place within the time frame identified in the ordinance.

THIS LETTER WILL SERVE AS NOTICE THAT THE BUILDING IDENTIFIED ABOVE IS AN UMB AND YOU, AS THE OWNER OF RECORD, ARE OBLIGATED TO ABIDE BY THE REQUIREMENTS OF ORDINANCE NO. 225-92.

The Inventory Form and the instructions for it are provided for your information. The form is to be prepared by a California Licensed Civil or Structural Engineer or Architect. This form is required to be submitted to the Bureau of Building Inspection within one year of the date of this letter and no later than February 15, 1994. If you feel that your building is not an UMB, you must hire an Engineer or Architect to provide information that your building is not an UMB. If your building is an UMB, your Engineer or Architect must submit the form with a \$75.00 filing fee and all information requested on the form.

February 3, 1993

Page 2

Certain types of occupancies may be exempt from this ordinance; therefore, it is important that your Engineer or Architect identify the existing use(s) of your building. Your Engineer or Architect can provide you with the technical requirements of this ordinance or you may obtain a free copy of the ordinance by calling the Board of Supervisors at 554-5184, or you may pick up a copy at City Hall, Room 235.

In addition, AB 1963, (Adopted by the State Legislature in 1992) will become effective March 31, 1993 and requires that UMB buildings be posted with the following sign:

**"THIS IS AN UNREINFORCED MASONRY BUILDING. UNREINFORCED
MASONRY BUILDINGS MAY BE UNSAFE IN THE EVENT OF A MAJOR
EARTHQUAKE."**

This sign shall be posted in a conspicuous place at the entrance of the building. The sign shall be not less than 5" x 7", containing the above statement, printed in not less than 30-point bold type. This sign cannot be removed until your building has been seismically upgraded per Ordinance No. 225-92. In addition, the Inventory Form and Orders of Abatement to seismically strengthen the building will be recorded against the property with the Recorder. The Orders of Abatement and the Inventory Form can only be removed from the title of the property after the building has been seismically strengthened.

In November 1992, the voters passed Proposition A, a \$350 million bond issue which will provide loans to eligible UMB owners for retrofit. The Board of Supervisors will issue guidelines for these loans in mid-1993 and money will become available shortly thereafter. At that time you will receive further information.

If you have any questions regarding this notice, or questions regarding the requirements of the UMB Ordinance, contact the Seismic Safety Section in the Bureau of Building Inspection at 558-6160.

If you have questions regarding how the Rent Control Ordinance applies to your building, (if it is a residential rental building) call the Rent Control Board at 554-9550.

If your building is a historically significant building and is registered as such, you may have additional questions which you should address to your Engineer or Architect. He/She in turn can call the Department of City Planning, Zoning Counter at 558-6377 for further information regarding the application of the State Historical Building Code.

February 3, 1993
Page 3

Lastly, if you need any further assistance or have any questions not covered by the phone numbers listed above, you may call my office at 558-6131 for answers to those questions.

Very truly yours,

A handwritten signature in dark ink, appearing to read "L. L. Litchfield", with a stylized flourish at the end.

L. L. Litchfield, P.E.
Superintendent

LLL:pp
unbowner.doc

Attachment: Inventory Form
 Instructions for Inventory Form

PLEASE MAIL THIS FORM TO

City and County of San Francisco
Department of Public Works
Bureau of Building Inspection
Seismic Safety Section
450 McAllister Street, Room 203
San Francisco, CA 94102-4583

File No. _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CITY AND COUNTY OF SAN FRANCISCO
UNREINFORCED MASONRY BUILDING INVENTORY FORM
(For correct use of this form, see instructions)

Building _____ Owner _____
Address(es) _____ Address _____
Assessor's Block No. _____ Lot No. _____ Telephone (____) _____
☐ Tax Exempt Organization ☐ City Owned

CLASSIFICATION

☐ Bearing Wall UMB ☐ Exempt _____
☐ Other _____ Describe _____ Explain _____
☐ Mixed Construction (per Sec. 1502(f)) ☐ Previously Strengthened (Attach Documentation)

BUILDING DESCRIPTION

Number of Stories _____ Basement ☐ Y ☐ N Gross First Story Area _____ sq. ft.
Irregularities
Vertical Irregularities as defined in Table No.23-M
Types A (Soft Story), or E (Weak Story) ☐ Y ☐ N ☐ Y ☐ N
Type D (In-plane Discontinuity) ☐ Y ☐ N ☐ Y ☐ N
Horizontal Irregularities as defined in Table No.23-N
Type C (Diaphragm Discontinuity) ☐ Y ☐ N ☐ Y ☐ N
Type D (Out-of-plane Offset) ☐ Y ☐ N ☐ Y ☐ N
Diaphragm Materials ☐ Wood or Plywood ☐ Other _____
Masonry Material ☐ Brick ☐ Other _____
Open Front Condition ☐ Y ☐ N Number of Open Stories _____ Number of Open Sides _____
Party Wall(s) ☐ Y ☐ N Shares walls with _____ Address _____
Top story crosswalls extend to roof diaphragm ☐ Y ☐ N
Crosswalls @ 40'-0" or less in all stories ☐ Y ☐ N
Masonry walls at least 40% solid w/ 2:1 pier ratio in all stories ☐ Y ☐ N
Veneer ☐ Y ☐ N
☐ Qualified Historical Building ☐ In Historical District

LOCATION (per Fig.No. 14-1)☐ Financial District☐ South of Market☐ North of Market/Civic Center☐ Chinatown☐ So. of Market Residential☐ Other: _____**POOR SOIL (per Sec. 1403)**☐ Y ☐ N**CURRENT OCCUPANCY (per Tables No. 5-A & 23-K. May not represent legally authorized use.*)**☐ A-1, 2, 2.1☐ E-1☐ Essential (Table 23-K, Cat.I)☐ A-3☐ E-2 or 3☐ Other: _____☐ H-1, 2 or 7☐ I☐ R

No. of dwelling units or guest rooms _____

* Legally authorized use shall be determined by BBI.

RISK LEVEL ASSIGNED (per Section 1404(b)2B)☐ 1☐ 2☐ 3☐ 4**THE FOLLOWING IS THE MINIMUM APPLICABLE RETROFIT PROCEDURE FOR THIS BUILDING:****Typical Cases**☐ General Procedure☐ Special Procedure☐ "Bolts Plus" with irregularities corrected☐ "Bolts Plus"**Other Cases**☐ 125% of current code with masonry carrying no lateral forces (essential & hazardous facilities)☐ 100% of current code with masonry carrying no lateral forces (private schools)☐ State Historical Building Code (Qualified Historical Building)☐ Section 104(f) & 2303(h); (previous change of occupancy per Sec. 502 or other trigger per Sec.104(b)) as determined by BBI.**DESIGN PROFESSIONAL'S STATEMENT:**

The undersigned is an architect, civil engineer, or structural engineer, licensed to practice in California and the forgoing is a statement of information obtained by direct visual observation by the undersigned, or others acting under my direct supervision, and is true to the best of my knowledge.

Signed: _____ Date: _____

Firm Name: _____ Phone: _____

affix seal here

APPROVAL (for BBI use Only)☐ Received☐ Approved as Submitted☐ Returned for Corrections to☐ Approved as Resubmitted

By: _____

Date: _____

INSTRUCTIONS FOR COMPLETING THE INVENTORY FORM

Your building is on the list of UMB's maintained by the Bureau of Building Inspection and so you are required to hire a State Licensed Architect or Civil or Structural Engineer to complete the enclosed Inventory Form.

The UMB Inventory Form is to be filled out by the owner's design professional and asks for some specific information on the building as follows:

1. Building Address - Fill in the complete address of the building (i.e. 110-114 Main Street). If it is a corner building, and has addresses on 2 streets, give the address on both streets.

Assessor's Block & Lot Numbers- Fill in the block and lot of the building. This can be obtained from the Assessor's office.
2. Owner's Name - Fill in the recorded name(s) of the owner(s) as listed in the assessor's record.
3. Address - Fill in the address to which correspondence should be sent.

Telephone - Fill in a daytime phone number where the owner or agent can be contacted.
- A. Tax Exempt Organization - An Organization which owns the UMB building and is exempt from taxation under the Internal Revenue laws of the United States and the Revenue and Taxation Code of the State of California. If you are a tax-exempt organization check this box. Provide proof of this status such as a copy of the Section 501(c)3 IRS-Code exemption notice.
- B. City Owned - If this box is checked and if the box for Essential in the Current Occupancy grouping on page 2 is checked, then that building requires upgrade to a level higher than typical cases of upgrade.
4. Classification - Check the appropriate box and fill in information as needed.
 - A. Bearing Wall UMB - A brick or concrete building which has at least one unreinforced masonry bearing wall.
 - B. Other - If you claim your building is not subject to the ordinance (e.g. steel or concrete frame building with masonry/concrete infill walls).

Instructions for Completing the Inventory Form
Page 2

Mixed Construction - See Section 1502(f) S.F. Building Code

- Exempt 1. If the building is exempt because it is less than 5 residential units (apartments or guestrooms) and there is no other occupancy in the building (such as commercial) note that here, check the box, and explain why it is exempt (e.g. 4 residential units or less).
2. Accessory unreinforced masonry buildings used for residential purposes on the same lot as a Group R Division 1 and 3 buildings of any type of construction containing less than five dwelling units or guest rooms and used solely for residential purposes.

Previously Strengthened - A former UMB that has been reinforced, under a building permit, and complies with building code Section 104(f) (in effect on or after May 21, 1973). If your building is of this type, you must provide evidence of the retrofit (a copy of the building permit and evidence of approval of the work by the Bureau of Building Inspection).

5. Building Description

Number of Stories - Count all stories as defined in Section 420 of the S.F. Building Code. Check the appropriate box as to whether the building has a basement. A basement is also defined in Section 420.

Gross First Story Area - Provide the total area in square feet.

Irregularities - Check the boxes for the irregularities that exist. The irregularities are defined in Table 23-M and the horizontal irregularities are defined in Table 23-N.

If these irregularities exist, check the yes box. If they are correctable, check the yes box. The completion of the section on vertical and horizontal irregularities is requested to determine the qualification for "bolts plus" level of upgrade per Section 1509(b), Exception 1, of the S.F. Building Code.

Diaphragm Materials - If the roof and floor diaphragms are made of wood or plywood, check that box. If the materials used in the diaphragm are other than wood or plywood, check the "other" box and describe that diaphragm material. Either "Bolts plus" upgrade or Special Procedure can only be used if all of the horizontal diaphragms are made of wood or plywood.

Instructions for Completing the Inventory Form
Page 3

Masonry Materials - If the bearing walls are made of brick, check the brick box. If the walls are of another material, check the "other" box and describe the material.

Open Front Condition - If the building has an open front or side, check the yes box. Write in the number of open stories and the number of open sides of the building. (Note - Use of special procedure as a means of seismic retrofit cannot be used if the building has an open front on more than one side or an open front on more than one story.)

Party Wall(s) - A party wall is a wall common to two or more buildings located on separate parcels of land. Check the yes box and give the address of the building with which it shares a wall(s).

Top Story Crosswalls - When inspecting the building, check to see if the crosswalls (Sections 1503 and 1511(c)) extend through the ceiling to the roof diaphragm. If the crosswall extends to the roof diaphragm, check the yes box.

If the Crosswalls are at minimum 40'-0" spacing or less in all stories, check the yes box. Unless this condition is achievable, the building does not qualify for Special Procedure.

If the Masonry Walls are at least 40% solid with a 2 to 1 pier ratio in all stories, check the yes box. This is one of the requirements of the "bolts plus" level of upgrade.

If the building has a Veneer, check the yes box to the external wall. The code in Section 1513(g) gives specific anchorage requirements for typing the veneer to the UMB wall.

Qualified Historical Building - If the building is a qualified historical building on the list of such buildings maintained by the Department of City Planning, check this box.

In Historical District - If the building is in a Historical District, as listed with the Department of City Planning, check this box.

Instructions for Completing the Inventory Form
Page 4

6. Location

Using the map (Figure 14.1, SFBC) determine if the building is located in any of the 5 listed areas. If not, check the box marked "other" and list the area, from figure 14.1, in which it is located.

7. Poor Soil

Using Section 1403 of the SFBC, refer to the Joyner map to determine whether or not this building is located on poor soil, and check the appropriate box.

8. Current Occupancy

List the present occupancy or occupancies of the building, by consulting Tables 5A and 23-K of the S.F. Building Code. These occupancies may or may not represent the legally authorized use.

The Bureau of Building Inspection will determine the legally authorized use.

The "other" box refers to any occupancy not listed on the form. The design professional should fill in this occupancy.

Also list the number of dwelling units and/or guestrooms in the building. If there are any dwelling units or guest rooms, also check the "R" occupancy box.

9. Risk Level Assigned - Fill out assigned risk level boxes per definition in Sec. 1404 (b) and based on the information provided in items "7" and "8" above. Table 14-A gives the time-lines for completion of retrofit work for various risk levels.

10. Minimum Applicable Retrofit Procedures for this building

This is a listing of the type of retrofit procedure to be employed in performing the seismic strengthening. Check the appropriate listing. The typical cases represent the seismic upgrade work which will generally be done. Other cases relate to special situations which apply to:

Essential and Hazardous Facilities (hospitals, flammable storage, etc.) These are required to be strengthened to 125% of the current S.F.B.C. (Table 23L).

Private Schools - U.M.B. walls cannot be used to carry lateral forces in these buildings.

Instructions for Completing the Inventory Form
Page 5

Buildings that are qualified as Historical Buildings (as defined in the State of California and Historical Building Codes) may use the State Historical Building Code requirements for retrofit of the building.

Section 104(f) and 2303(h)

If the UMB owner decides to remodel the building, the building could require a Sec. 104(f) type of upgrade triggered by Section 104(b) or Section 502. The force level for this type of upgrade is specified in Section 2303(h).

Design Professional's Statement

This section must be completed in full including the signature and the seal of the design professional completing this form.

WHEN RECORDED,
PLEASE MAIL THIS INSTRUMENT TO

City and County of San Francisco
Department of Public Works
Bureau of Building Inspection
Seismic Safety Section
450 McAllister Street, Room 203
San Francisco, CA 94102-4583

File No. _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CITY AND COUNTY OF SAN FRANCISCO
UNREINFORCED MASONRY BUILDING INVENTORY FORM
(For correct use of this form, see instructions)

Building 77 O'Farrell
Address(es) 77 O'Farrell
San Francisco, CA
Assessor's Block No. 0328 Lot No. 003

Owner Jaymont Properties
Address 88 Kearny Street
San Francisco, CA 94108
Telephone (415) 986-8808
☐ Tax Exempt Organization ☐ City Owned

CLASSIFICATION

- ☐ Bearing Wall UMB ☐ Exempt _____
☐ Other _____ Describe _____ Explain _____
☐ Mixed Construction (per Sec. 1502(f)) ☒ Previously Strengthened (Attach Documentation)

BUILDING DESCRIPTION

Number of Stories _____ Basement ☐ Y ☐ N Gross First Story Area _____ sq. ft.
Irregularities
Vertical Irregularities as defined in Table No.23-M
Types A (Soft Story), or E (Weak Story) ☐ Y ☐ N ☐ Y ☐ N
Type D (In-plane Discontinuity) ☐ Y ☐ N ☐ Y ☐ N
Horizontal Irregularities as defined in Table No.23-N
Type C (Diaphragm Discontinuity) ☐ Y ☐ N ☐ Y ☐ N
Type D (Out-of-plane Offset) ☐ Y ☐ N ☐ Y ☐ N
Diaphragm Materials ☐ Wood or Plywood ☐ Other _____
Masonry Material ☐ Brick ☐ Other _____
Open Front Condition ☐ Y ☐ N Number of Open Stories _____ Number of Open Sides _____
Party Wall(s) ☐ Y ☐ N Shares walls with _____ Address _____
Top story crosswalls extend to roof diaphragm ☐ Y ☐ N
Crosswalls @ 40'-0" or less in all stories ☐ Y ☐ N
Masonry walls at least 40% solid w/ 2:1 pier ratio in all stories ☐ Y ☐ N
Veneer ☐ Y ☐ N
☐ Qualified Historical Building ☐ In Historical District

LOCATION (per Fig.No. 14-1)

- ☐ Financial District ☐ South of Market ☐ North of Market/Civic Center
☐ Chinatown ☐ So. of Market Residential ☐ Other: _____

POOR SOIL (per Sec. 1403)

☐ Y ☐ N

CURRENT OCCUPANCY (per Tables No. 5-A & 23-K. May not represent legally authorized use.)

- ☐ A-1, 2, 2.1 ☐ E-1 ☐ Essential (Table 23-K, Cat.I)
☐ A-3 ☐ E-2 or 3 ☐ Other: _____
☐ H-1, 2 or 7 ☐ I
☐ R No. of dwelling units or guest rooms _____

* Legally authorized use shall be determined by BBI.

RISK LEVEL ASSIGNED (per Section 1404(b)2B)

☐ 1 ☐ 2 ☐ 3 ☐ 4

THE FOLLOWING IS THE MINIMUM APPLICABLE RETROFIT PROCEDURE FOR THIS BUILDING:

Typical Cases

- ☐ General Procedure
☐ Special Procedure
☐ "Bolts Plus" with irregularities corrected
☐ "Bolts Plus"

Other Cases

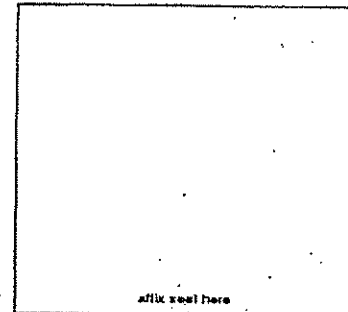
- ☐ 125% of current code with masonry carrying no lateral forces (essential & hazardous facilities)
☐ 100% of current code with masonry carrying no lateral forces (private schools)
☐ State Historical Building Code (Qualified Historical Building)
☐ Section 104(f) & 2303(h); (previous change of occupancy per Sec. 502 or other trigger per Sec.104(b)) as determined by BBI.

DESIGN PROFESSIONAL'S STATEMENT:

The undersigned is an architect, civil engineer, or structural engineer, licensed to practice in California and the forgoing is a statement of information obtained by direct visual observation by the undersigned, or others acting under my direct supervision, and is true to the best of my knowledge.

Signed: _____ Date: _____

Firm Name: _____ Phone: _____



APPROVAL (for BBI use Only)

- ☐ Received _____ Date: _____
☐ Approved as submitted _____
☐ Returned for Corrections to _____ Date: _____
☐ Approved as Resubmitted _____
 By: _____ Date: _____

APPROVED
6/19/87
Franklin
BUREAU SUPERINTENDENT
DEPT. OF BUILDING

STRUCTURAL SEISMIC UPGRADE

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

FORM 3 ☒ OTHER AGENCIES REVIEW REQUIRED
FORM 8 ☐ OVER-THE-COUNTER ISSUANCE

2 NUMBER OF PLAN SETS UN

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF PUBLIC WORKS OF SAN FRANCISCO FOR PERMISSION TO BUILD IN ACCORDANCE WITH THE PLANS AND SPECIFICATIONS SUBMITTED HEREWITH AND ACCORDING TO THE DISCLOSURE AND FOR THE PURPOSE HEREINAFTER SET FORTH.

37782
567713

PERMIT NO. 157722
DATE 5/8/87

STOCKTON STREET - BLK. 32B, LOT 3 & 4

ESTIMATED COST OF JOB \$425,000

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

DESCRIPTION OF EXISTING BUILDING			
(1A) TYPE OF CONSTRUCTION	(1B) NO. OF STORIES OF OCCUPANCY	(1C) NO. OF ALLEGEDLY AND CELLS	(1D) PRESENT USE
III-1 HR.	6	1	RETAIL
(1E) OCCUP. CLASS	B-2		
DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION			
(2A) TYPE OF CONSTRUCTION	(2B) NO. OF STORIES OF OCCUPANCY	(2C) NO. OF ALLEGEDLY AND CELLS	(2D) PROPOSED USE (LEGAL USE)
III-1 HR.	6	1	RETAIL
(2E) OCCUP. CLASS	B-2		
(3) IS ALSO BOUND TO BE CONSTRUCTION OR ALTERATION	(4) YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(5) YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	(6) YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
(7) IS GENERAL CONSTRUCTION	UNDETERMINED		
(8) OWNER - (SEESE-1000S) (SEESE-1000S)			
48 STOCKTON ASSOCIATES LTD., c/o P.G. SIMMONS INC., 19 W. 21ST ST., NEW YORK 10011			
(9) WORK IN DESCRIPTION OF ALL WORK TO BE PERFORMED UNDER THIS APPLICATION (REFERENCE TO PLANS IS NOT REQUIRED)			
STRUCTURAL SEISMIC UPGRADE ONLY, INSTALLATION OF NEW STEEL TRUSS FRAME MEMBERS, COLUMN STIFFENERS, GUHITE AT BASEMENT WALLS.			
ADDITIONAL INFORMATION - FORM 3 APPLICANTS ONLY			
(10) DOES THIS ALTERATION INVOLVE ADDITIONAL WORK TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(11) IS IT A YES STATE NEW REPORT AT CENTER END OF PROJECT	N/A
(12) WILL SEPARATE OVER SUBMITTALS BE REQUIRED OR OTHERWISE	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(13) WILL BUILDING SETTING BE REQUIRED OR OTHERWISE	NO
(14) DOES THE ALTERATION INVOLVE EXISTING OR NEW FOUNDATION TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(15) DOES ANY OTHER EXISTING FOUNDATION TO BUILDING INVOLVE EXISTING OR NEW FOUNDATION TO BUILDING?	NO
(16) DOES THE ALTERATION INVOLVE EXISTING OR NEW FOUNDATION TO BUILDING?	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	(17) DOES THE ALTERATION INVOLVE EXISTING OR NEW FOUNDATION TO BUILDING?	NO
PETER CULLEY & ASSOCIATES, 568 HOWARD ST., SAN FRANCISCO, CA 94105			
SE 1969			
UNKNOWN			

IMPORTANT NOTICES

No change shall be made in the character of the occupancy or use without first obtaining a Building Permit authorizing such change. See San Francisco Building Code and San Francisco Housing Code.

No portion of building or structure or scaffolding used during construction, is to be closer than 10' to any wire carrying more than 750 volts. See Sec. 263, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for obtaining plans and application being kept at building site.

Grade lines on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown revised drawings showing correct grade lines, and are filed together with complete details of retaining walls and wall footings required must be submitted to this Bureau for approval.

ANY STIPULATION REQUIRED HEREIN OR BY CODE MAY BE APPEALED.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY OBTAINED. WHEN REQUIRED APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS, A SEPARATE PERMIT FOR THE WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10) (11) (12) (13) (14) (15) (16) (17).

THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In drawings all insulating materials must have a clearance of not less than two inches from all electrical wires or equipment.

CHECK APPROPRIATE BOX:

☒ OWNER ☐ ARCHITECT ☐ ENGINEER

☐ LESSEE ☐ AGENT WITH POWER OF ATTORNEY

☐ CONTRACTOR ☐ ATTORNEY IN FACT

APPLICANT'S CERTIFICATION

I HEREBY CERTIFY AND AGREE THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION DESCRIBED IN THIS APPLICATION, ALL THE PROVISIONS OF THE PERMIT AND ALL LAWS AND ORDINANCES THEREIN WILL BE COMPLIED WITH.

NOTICE TO APPLICANT

HOLD HARMLESS CLAUSE. The Permittee(s) by acceptance of the permit, agree(s) to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to answer the defense of the City and County of San Francisco against all such claims, demands and actions.

In conformity with the provisions of Section 3800 of the Labor Code of the State of California, the applicant shall have on file, or file with the Central Permit Bureau, either Certificate (I) or (II) as designated below or shall indicate item (I) or (II) below, whichever is applicable. If however, item (III) is checked then item (I) must be checked as well. Mark the appropriate method of compliance below:

(I) Certificate of Consent to Self-Insure issued by the Director of Industrial Relations.

(II) Certificate of Workman's Compensation Insurance issued by an admitted insurer.

An exact copy or duplicate of (I) certified by the Director or (II) certified by the insurer.

The cost of the work to be performed is \$100 or less.

I certify that in the performance of the work for which this Permit is issued, I shall not employ any person in any manner so as to become subject to the workman's compensation laws of California, or become subject to the workman's compensation provisions of the Labor Code of California and fail to comply forthwith with the provisions of Section 3800 of the Labor Code, that the Permit herein applied for shall be deemed revoked.

I certify as the owner (or the agent of the owner) that in the performance of the work for which this Permit is issued, I will employ a contractor who complies with the workman's compensation laws of California and who has on file, or prior to the commencement of any work with the Central Permit Bureau evidence that workman's compensation insurance is valid.

P.G. Simmons
Agent for the Owner
3/4/87

CONDITIONS AND STIPULATIONS

<p>APPROVED: <i>[Signature]</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>[Signature]</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>N/A JL</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>[Signature]</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>N/A JL</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>[Signature]</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>[Signature]</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>
<p>APPROVED: <i>[Signature]</i></p> <p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>	<p>DATE: <i>4-15-87</i></p> <p>REASON: <i>[illegible]</i></p> <p>NOTIFIED: <i>[illegible]</i></p>

66 STOCKTON		ST		3328 / 003		8703506	
OWNER NAME STOCKTON ASSOCIATES LTD.				TELEPHONE (212) 677-4368			
ESTIMATED COST \$425,000		FILE DATE 3/17/87		DISPOSITION ISSUED		DISPOSITION DATE 05/08/87	
FORM CONST. TYPE 3 5		OCCUPANCY CODES #2		PLANS STORIES UNITS 2 5		PERMIT NO. EXPIRE DATE 567713 05/08/89	
CONTACT NAME				DISTRICT 81D-INSP 2			
STANDARD DESCRIPTION-BLOG. USE				OTHER DESCRIPTION			
RETAIL SALES				STRUCTURAL SEISMIC UPGRADING 3 ONLY.			
SPECIAL INSPECTIONS? YES		FIRE ZONE		NO		454 H. 1204	
SPECIAL USE DISTRICT		TICP		NO		COMPLIANCE WITH REPORTS	
PENALTY		NO					
NOTES: PD SIMMONS MIKE CHICCI'S							
TACCA FOR DEMO 870003-06							
S W INSP 554-5837							

PERMIT INSPECTION RECORD
DEPARTMENT OF PUBLIC WORKS
CITY AND COUNTY OF SAN FRANCISCO
BUILDING INSPECTION JOB CARD

DATE	BUILDING INSPECTORS JOB RECORD
7/13/87	WORK STOPPED
9/10/87	Check Progress 16
11/13/87	small chiv. and comp.
11/14/87	disc comp. re signed permit
6/12/88	met w/ new cont.
7/19/88	called msp
11/9/88	check progress
11/15/88	disc 81 day
8/18/89	Time limit up
1/1	PERMIT EXPIRED
1/1	SAD APP 77 8800326
1/1	FOR COMPLETION
1/1	
1/1	
1/1	
1/1	
1/1	
1/1	
1/1	
1/1	EXPIRED
8-18-89	WORK COMPLETED - FINAL CERTIFICATE POSTED.
APP. NO.	8703506 <i>B. Green</i>
	BUILDING INSPECTOR

APPROVED

OCT - 6 1987

FIRE

BEN GREENE

APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

FORM 3 OTHER AGENCIES REVIEW REQUIRED *NR*
FORM 4 OVER THE COUNTER ISSUANCE

OFFICE COPY
APPLICATION FOR PERMIT TO BUILD IN ACCORDANCE WITH THE CODES AND SPECIFICATIONS SUBMITTED HERewith AND ACCORDING TO THE DESCRIPTION AND FOR THE PURPOSE HEREIN SET FORTH

2 NUMBER OF PLAN SETS *WW*

DATE FILED <i>9/3/87</i>	PERMIT NO. <i>163387</i>	PROJECT ADDRESS <i>40 Stockton St.</i>	STOCK NO. <i>328-344</i>
PERMIT NO. <i>577030</i>	EXPIRATION DATE <i>10-6-87</i>	ESTIMATED COST OF JOB <i>\$15</i>	WORKER COST <i>15 hrs Back CK Fee</i>

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

DESCRIPTION OF EXISTING BUILDING			
TYPE OF CONSTRUCTION <i>II N</i>	NO. OF STORIES OF OCCUPANCY <i>6</i>	NO. OF BASEMENTS AND CELLARS <i>1</i>	PRESENT USE <i>Retail</i>
DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION			
TYPE OF CONSTRUCTION <i>II N</i>	NO. OF STORIES OF OCCUPANCY <i>6</i>	NO. OF BASEMENTS AND CELLARS <i>1</i>	PROPOSED USE <i>Retail</i>

NOT submitted yet

40 Stockton Assoc Ltd. c/o P.G. Simmons Inc. 19 W 21st St. NY 10010 (212) 677-4868

This is a revision to the Structural Seismic Upgrade conforming to Section 104F and previously approved under permit application # 8703506

See Plan Checker Joe Lee

ADDITIONAL INFORMATION - FORM 3 APPLICANTS ONLY

(1) DOES THE ALTERATION CREATE ADDITIONAL STORY TO BUILDING?	(2) DOES THE ALTERATION CHANGE THE HEIGHT OR CHANGING OF FLOOR?	(3) DOES THE ALTERATION CHANGE THE CHANGING OF FLOOR TO BASEMENT?	(4) DOES THE ALTERATION CHANGE THE CHANGING OF FLOOR TO BASEMENT?
(5) WILL SIGNATURE OVER SIGN SIGNATURE BE REQUIRED ON ALTERATION?	(6) WILL SIGNATURE OVER SIGN SIGNATURE BE REQUIRED ON ALTERATION?	(7) WILL SIGNATURE OVER SIGN SIGNATURE BE REQUIRED ON ALTERATION?	(8) WILL SIGNATURE OVER SIGN SIGNATURE BE REQUIRED ON ALTERATION?

Peter Colley & Assoc. 568 Howard St. SF.

#1719

IMPORTANT NOTICES

No change shall be made in the character of the occupancy, or not without first obtaining a Building Permit comprising such change. See San Francisco Building Code and San Francisco Housing Code.

The portion of building or structure at existing used during construction, to be closed then, off to any use containing more than 750 cubic feet. See Sec. 365, California Penal Code.

Pursuant to San Francisco Building Code, the building permit shall be posted on the job. The owner is responsible for approved plans and application being kept at building site.

Grade lines as shown on drawings accompanying this application are assumed to be correct. If actual grade lines are not the same as shown, revised drawings showing correct grade lines, run and left, together with complete definition of retaining walls and wall footings required must be submitted to this Bureau for approval.

ANY SITUATION REQUIRED HEREIN OR BY CODE MAY BE APPLIED.

BUILDING NOT TO BE OCCUPIED UNTIL CERTIFICATE OF FINAL COMPLETION IS POSTED ON THE BUILDING OR PERMIT OF OCCUPANCY GRANTED, WHEN REQUIRED.

APPROVAL OF THIS APPLICATION DOES NOT CONSTITUTE AN APPROVAL FOR THE ELECTRICAL WIRING OR PLUMBING INSTALLATIONS. A SEPARATE PERMIT FOR THE ELECTRICAL WIRING AND PLUMBING MUST BE OBTAINED. SEPARATE PERMITS ARE REQUIRED IF ANSWER IS "YES" TO ANY OF ABOVE QUESTIONS (10), (11), (12), (13), (14) OR (15). THIS IS NOT A BUILDING PERMIT. NO WORK SHALL BE STARTED UNTIL A BUILDING PERMIT IS ISSUED.

In drawings of mechanical materials must have a clearance of not less than two inches from all electrical wires or equipment.

ONCE APPROPRIATE BY:

☐ OWNER ☐ ARCHITECT ☐ ENGINEER

☐ LESSEE ☐ AGENT WITH POWER OF ATTORNEY

☐ CONTRACTOR ☐ ATTORNEY IN FACT

NOTICE TO APPLICANT

HOLD HARMLESS CLAIM: The Permittee by acceptance of the permit, agrees to indemnify and hold harmless the City and County of San Francisco from and against any and all claims, demands and actions for damages resulting from operations under this permit, regardless of negligence of the City and County of San Francisco, and to assume the defense of the City and County of San Francisco against all such claims, demands and actions.

In conformity with the provisions of Section 2800 of the Labor Code of the State of California, the applicant shall file on file, or file with the Central Permit Bureau, either Certificate (i) or (ii) or (iii) designated below as shall indicate law (i) or (ii) or (iii) below, whichever is applicable. If however, item (iv) is checked then item (v) must be checked as well. Mark the appropriate method of compliance below.

☐ Certificate of Consent to Self-insure issued by the Director of Industrial Relations.

☐ Certificate of Workmen's Compensation Insurance issued by an authorized insurer.

☐ A valid copy or duplicate of it certified by the Director or as it is certified by the insurer.

The cost of the work to be performed is \$100 or less.

I hereby certify that the performance of the work for which this Permit is issued, shall not employ any person in any manner so as to become subject to the workmen's compensation laws of California. I further acknowledge that I understand, in the event that I should become subject to the workmen's compensation provisions of the Labor Code of California, and fail to comply forthwith with the provisions of Section 2800 of the Labor Code, that the Permit herein granted shall be deemed revoked.

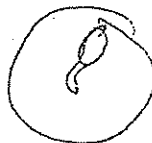
I hereby certify that the owner or the agent of the owner that in the performance of the work for which this Permit is issued, I will employ a registered architect or engineer, or prior to the commencement of any work, with the Central Permit Bureau evidence that workmen's compensation insurance is in effect.

[Signature] 9/7/87

CONDITIONS AND STIPULATIONS

<p>APPROVED</p> <p><input checked="" type="checkbox"/></p>	<p>Joseph Lee</p> <p><i>[Signature]</i> 9-24-87</p>	<p>DATE</p> <p>REASON</p>
<p>APPROVED</p> <p><input type="checkbox"/></p>	<p>N/A JL</p>	<p>NOTIFIED MR.</p> <p>DATE</p> <p>REASON</p>
<p>APPROVED</p> <p><input type="checkbox"/></p>	<p>N/A JL</p>	<p>NOTIFIED MR.</p> <p>DATE</p> <p>REASON</p>
<p>APPROVED</p> <p><input checked="" type="checkbox"/></p>	<p>SPECIAL INSPECTION AND REPORTS REQUIRED PER SECTION 306. a. b. c. SUBMIT REPORTS TO THE BUREAU OF BLOG. INSPECTION FOR THE FOLLOWING:</p> <p>See notes on dwg. S 1</p> <p>Joseph Lee</p> <p><i>[Signature]</i> 9-24-87</p>	<p>NOTIFIED MR.</p> <p>DATE</p> <p>REASON</p>
<p>APPROVED</p> <p><input type="checkbox"/></p>	<p>N/A JL</p>	<p>NOTIFIED MR.</p> <p>DATE</p> <p>REASON</p>
<p>APPROVED</p> <p><input type="checkbox"/></p>	<p></p>	<p>NOTIFIED MR.</p> <p>DATE</p> <p>REASON</p>
<p>APPROVED</p> <p><input type="checkbox"/></p>	<p></p>	<p>NOTIFIED MR.</p> <p>DATE</p> <p>REASON</p>

If the image of this document appears less sharp than this notice, it is due to the quality of the original.



46 STOCKTON		ST		APPLICATION NO. 8712724	
OWNER NAME 48 STOCKTON ASS LTD/PG SIMONS					
ESTIMATED COST \$1		FILE DATE 9/03/87		DISPOSITION ISSUED	
DISPOSITION DATE 10/06/87		PERMIT NO. 577030		EXPIRE DATE 02/06/88	
FORM CONST. TYPE 3 3		OCCUPANCY CODES B-2		PLANS STORIES UNITS 2 6	
CONTACT NAME		DISTRICT BID-INSP			
STANDARD DESCRIPTION/BLOG. USE		OTHER DESCRIPTION			
RETAIL SALES		RE #8703506, STRUCTURAL SEISMI C UPGRADE			
SPECIAL INSPECTIONS? NO		FIRE ZONE		COMPLIANCE WITH REPORTS	
SPECIAL USE DISTRICT		TIDF NO			
		PENALTY NO			
NOTES:					
PERMIT INSPECTION RECORD DEPARTMENT OF PUBLIC WORKS CITY AND COUNTY OF SAN FRANCISCO BUILDING INSPECTION JOB CARD					

9003-15

NOTITIA

2-11-88

~~WORK COMPLETED~~

FINAL REPORT

APP. NO.

8712 724

B. E. Green
BUILDING INSPECTOR

DECLARATION OF ART FONG

DECLARATION OF ART FONG

I, Art Fong, declare as follows:

1. I am a Senior Asset Manager at Invesco Real Estate, Inc. I am also the Owner's Representative for Stockton Street Properties, Inc. ("SSP"), owner of certain real property located at what is commonly known as 48 Stockton Street, or 77 O'Farrell Street (the "Property"). From 2004 to July 2009, I was the Vice President of SSP and was the person at SSP primarily responsible for the management and oversight of the Property. I offer this Declaration in support of SSP's Appeal to the City of San Francisco Department of Public Works' ("DPW's") November 16, 2009 attempted revocation of Minor Sidewalk Encroachment Permit 06MSE-0181 (the "Permit"). If called as a witness, I could and would competently testify to these matters.

2. I never authorized Patrick Otellini, or anyone else at Sanchez-Correa & Associates, to sign the Permit application or the Permit itself. If I had been aware of the Permit, I would not have authorized anyone to sign it. To the best of my knowledge, no one at SSP authorized Mr. Otellini, or anyone else at Sanchez-Correa & Associates, to sign the Permit or the Permit application.

3. I am informed and believe that Barneys, Inc. retained Sanchez-Correa & Associates to obtain the Permit.

4. I was unaware of the existence of the Permit until a meeting was held with Mr. Sanchez, of Sanchez-Correa & Associates, at the property in early 2009. This meeting was prompted by the receipt of an updated title report from Fidelity Title.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed this 1st day of December, 2009, at San Francisco, California.



Art Fong

301157484.1