

Front of Building



- 1906 ● 3 story, 6 unit building constructed
- 1985 ● Ellis Act becomes law
- October 24, 2003 ● Above Water, North Beach Partners, Cydonia Partners, and WBG T purchases (Eichler, Daro, and Schultz)
- April 13, 2004 ● Eviction Notices served to tenants
- August 12, 2004 ● Ellis Act submitted to Rent Board
- May 1, 2005 ● Eligibility cut-off date for the issuance of eviction notice pursuant to Subdivision Code
- April 12, 2007 ● Power of sale granted to Above Water, et. al.
- August 29, 2007 ● Superior Court Rules against tenants (Tenderloin Housing Clinic represents tenants as respondents)
- July 9, 2009 ● W.B. Coyle as Servious ADD, LLC purchases property
- August 2019 ● Condominium conversion request submitted to the Department of Public Works
- September 2, 2020 ● Tenderloin Housing Clinic claims proposal fails to meet Subdivision Code Section 1386
- September 3, 2020 ● CPC Hearing
- September 17, 2020 ● CPC Hearing

Eviction Notices served in 2004

Coyle sells building to Phoenix Rabbit LLC

Current Owners Purchase Units in 2012 from Phoenix Rabbit LLC

REGULATION SUMMARY

“The ‘Ellis Act’ is a state law which says that landlords have the unconditional right to evict tenants to ‘go out of business.’ For an Ellis eviction, the landlord must remove all of the units in the building from the rental market, i.e., the landlord must evict all the tenants and cannot single out one tenant (for example, with low rent) and/or remove just one unit out of several from the rental market. The Ellis Act is included in the just causes for eviction under the Rent Ordinance as Section 37.9(a)13” (Accessed September 8, 2020: <https://sftu.org/ellis/>).

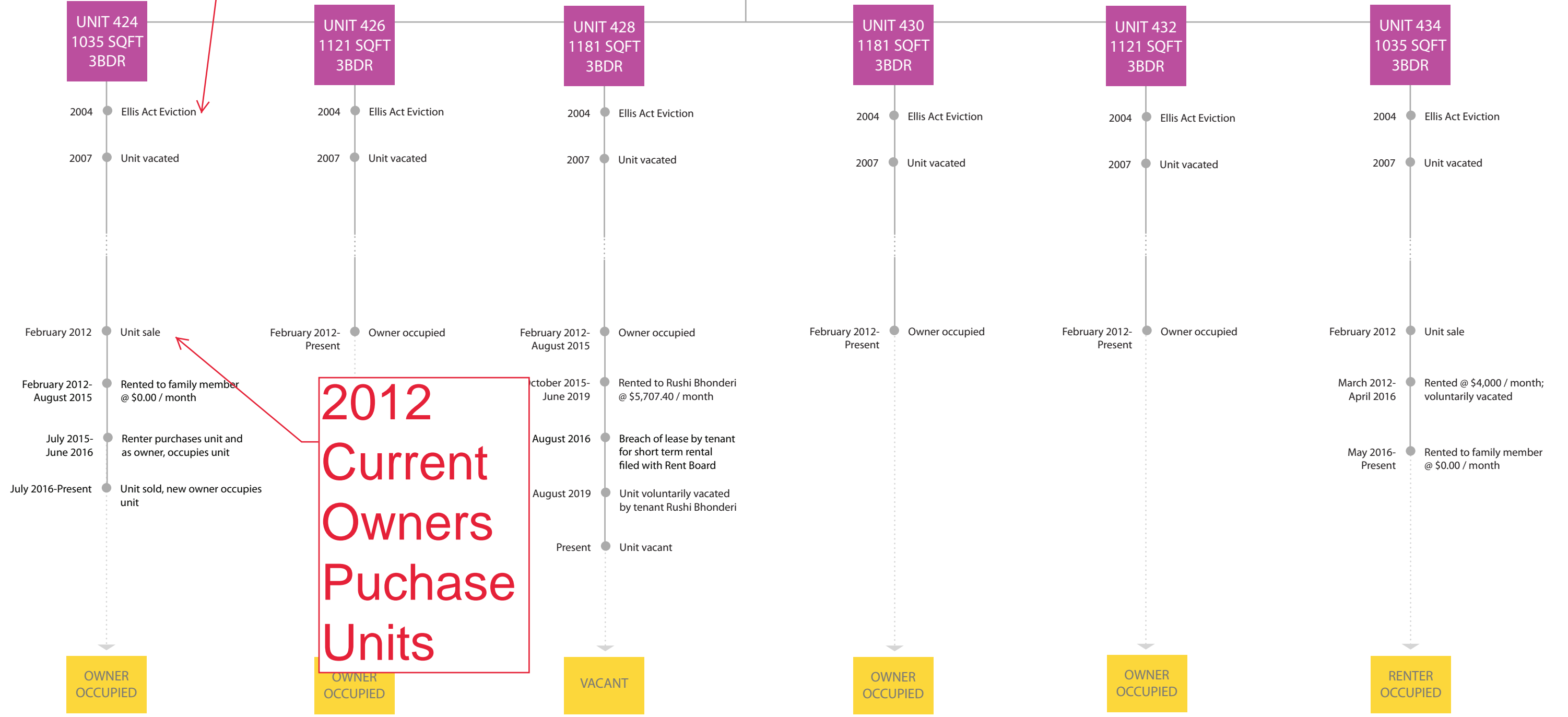
COURT FINDINGS

“The tenants’ threatened loss of property interest resulted from the owners’ invocation of their right under the Ellis Act to recover possession of the Francisco Street property. As the trial court recognized, the Ellis Act evictions in and of themselves were lawful based on the evidence presented thus far. Nevertheless, the court went on to find that the Ellis Act evictions were ‘part and therance’ of the ‘unfair business ng, however, does not compel the s Act evictions were unlawful” (Accessed September 8, 2020: <https://casetext.com/>).

2004 Ellis Act Eviction

1906 ● 3 story, 6 unit building constructed

October 24, 2003 ● Above Water, North Beach Partners, Cydonia Partners, and WBGT purchases (Eichler, Daro, and Schultz)
 July 9, 2009 ● W.B. Coyle as Servious ADD, LLC purchases property

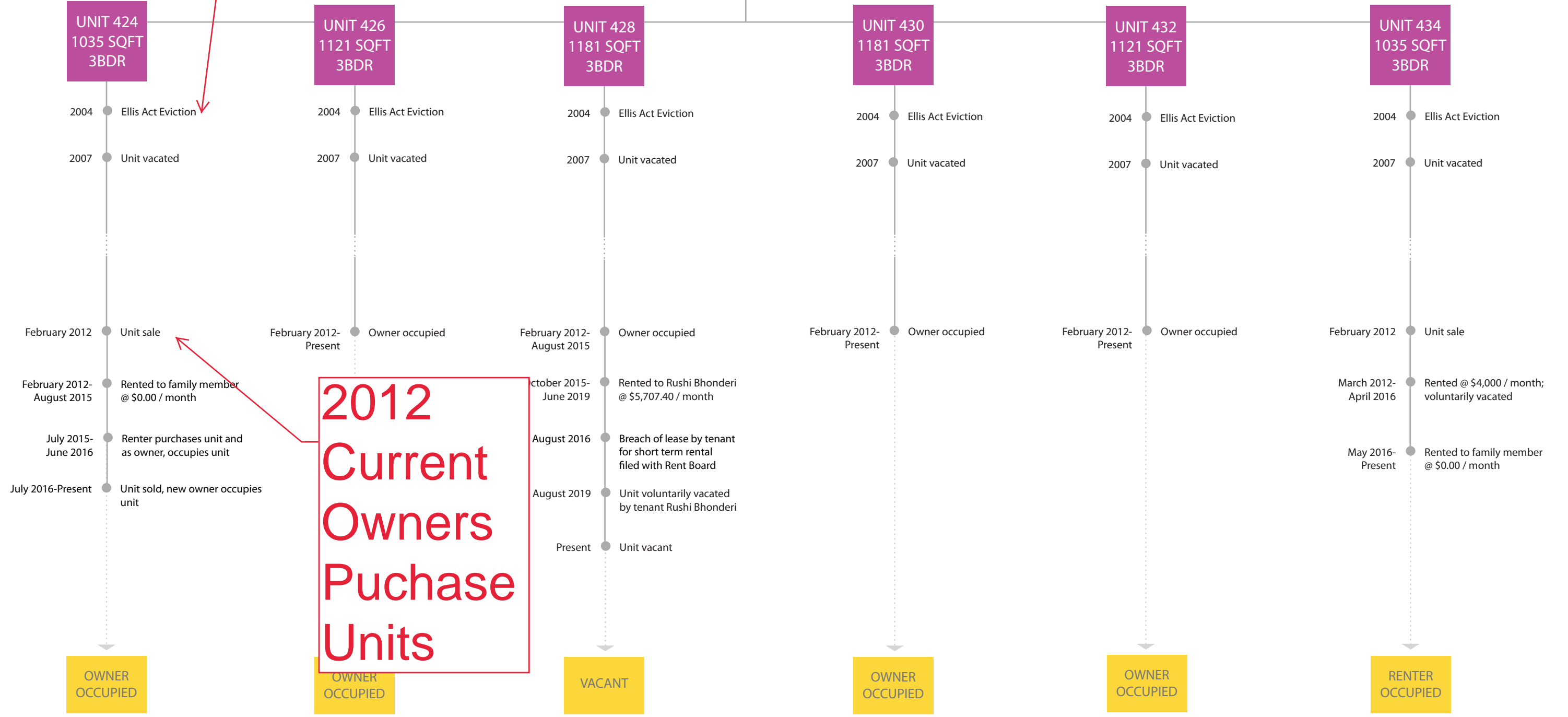


2012 Current Owners Purchase Units

2004 Ellis Act Eviction

1906 ● 3 story, 6 unit building constructed

October 24, 2003 ● Above Water, North Beach Partners, Cydonia Partners, and WBGT purchases (Eichler, Daro, and Schultz)
 July 9, 2009 ● W.B. Coyle as Servious ADD, LLC purchases property



2012 Current Owners Purchase Units

OWNER OCCUPIED

OWNER OCCUPIED

VACANT

OWNER OCCUPIED

OWNER OCCUPIED

RENTER OCCUPIED

Basis for Recommendation

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan. Although the Project results in a loss of two rental units, the Project does provide additional homeownership opportunities, which is a goal for the City's. The Department also finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity. The Department also finds the project consistent with applicable provisions of the Planning Code.

Attachments:

Draft Motion – Condominium Subdivision Conversion
Exhibit A – Tentative Map
Exhibit B – Maps and Context Photos
Exhibit C – Existing Tenant & Eviction History

Review of available voter records show unit owners have been consistently registered in their units, which is consistent with the Project Sponsor's report of residency. The voter records show additional registrations of nine (9) individuals since 2012, with three (3) of these registrations in 2020; one (1) voter registration is also declared as a tenant in the Project Sponsor's report. No title transfer or lease agreement in the individuals name was found, so whether these persons were/are a co-habitants with the unit owner, a renter under lease with the unit owner, or on what terms they ceased to occupy the unit are unknown.

Elderly or permanently disabled tenants displaced or discriminated against in leasing units.

In 2008, renters filed requests with the Rent Board to re-occupy the dwelling units. Only elderly persons are eligible to reoccupy units under the Ellis Act. No evidence was found to support that the requests to re-occupy were upheld.

In the past six (6) years, two (2) units had rental tenants vacate; the Department has discovered no evidence that the tenants vacating the property were either elderly or disabled.

No evidence of unlawful displacement or discrimination in the leasing of units at this property has been found at this property.

Evictions for the purpose of preparing the building for conversion.

On April 13, 2004 Ellis Act eviction notices were issued to tenants. Tenants filed suit, represented by the Tenderloin Housing Clinic.

In 2007 the Superior Court held that the property owners who issued the Ellis Act evictions were not preparing the building for conversion because: "(1) their purchase of a unit in which they intended to reside was not a business practice; (2) their purchase did not require compliance with the Subdivided Lands Act; and (3) the tenants were not harmed by any alleged violation of the Subdivided Lands Act." The Superior Court additionally upheld that the Ellis Act evictions were lawful and that the tenants represented by the Tenderloin Housing Clinic lacked standing to assert legally cognizable harm to the tenants.

Increases in rents over the 18 months preceding the date of filing the application.

Over the past 18 months the Project Sponsor has reported that one (1) unit has been rented at the rate of \$0.00/month and one (1) unit has been vacant; rental at the subject property overall has increased zero dollars (\$0.00) or zero (0) percent, which remains below the permitted rate of increase.

Incorrect information (to mislead or misdirect efforts by agencies of the City and County of San Francisco in the administration of this Code) Submitted by Subdivider.

No evidence has been found of incorrect or misleading information submitted to the Planning Department, Department of Public Works, the Mayor's Office of Housing and Community Development (MOHCD), or other city agency.

- C. **Eligibility.** Subdivision Code Section 1396.2 requires that, with limited exceptions (not applicable here), no evictions be found on or after May 1, 2005.

The issuance of eviction notice is considered the eviction date, as opposed to the date of tenant vacation. In this case, eviction notices were issued on April 13, 2004. Tenants vacated sometime in 2007 after the Superior Court upheld the evictions as lawful under the Ellis Act. As such, no evictions are found after May 1, 2005.

7. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 2

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.4

Promote improvements and continued maintenance to existing units to ensure long term habitation and safety.

Property owners are required to correct outstanding code violations identified in a Physical Inspection Report issued by the Department of Building Inspection (DBI). All work must be completed and a DBI Certificate of Final Completion must be issued prior to DPW approval

OBJECTIVE 3

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

Policy 3.3

Maintain balance in affordability of existing housing stock by supporting affordable moderate ownership opportunities.

Conversions of rental stock to condominiums help achieve affordable homeownership, providing a category of housing stock for moderate income housing needs. Through the Expedited Conversion Program, properties are eligible to convert from rental units to ownership status so long as owner-occupancy requirements are met.



SELLER PROPERTY QUESTIONNAIRE

(C.A.R. Form SPQ, Revised 11/10)

This form is not a substitute for the Real Estate Transfer Disclosure Statement (TDS). It is used by the Seller to provide additional information when a TDS is completed or when no TDS is required.

I. Seller makes the following disclosures with regard to the real property or manufactured home described as 424 - 434 Francisco Street, Assessor's Parcel No. 0041-010, situated in San Francisco, County of San Francisco, California, ("Property").

II. The following are representations made by the Seller. Unless otherwise specified in writing, Broker and any real estate licensee or other person working with or through Broker has not verified information provided by Seller. A real estate broker is qualified to advise on real estate transactions. If Seller or Buyer desires legal advice, they should consult an attorney.

III. Note to Seller: PURPOSE: To tell the Buyer about known material or significant items affecting the value or desirability of the Property and help to eliminate misunderstandings about the condition of the Property.

- Answer based on actual knowledge and recollection at this time.
- Something that you do not consider material or significant may be perceived differently by a Buyer.
- Think about what you would want to know if you were buying the Property today.
- Read the questions carefully and take your time.

IV. Note to Buyer: PURPOSE: To give you more information about known material or significant items affecting the value or desirability of the Property and help to eliminate misunderstandings about the condition of the Property.

- Something that may be material or significant to you, may not be perceived the same way by the Seller.
- If something is important to you, be sure to put your concerns and questions in writing (C.A.R. form BMI).
- Sellers can only disclose what they actually know. Seller may not know about all material or significant items.
- Seller's disclosures are not a substitute for your own investigations, personal judgments or common sense.

V. SELLER AWARENESS: For each statement below, answer the question "Are you (Seller) aware of..." by checking either "Yes" or "No." Provide explanations to answers in the space provided or attach additional comments and check section VI.

A. STATUTORILY OR CONTRACTUALLY REQUIRED OR RELATED: ARE YOU (SELLER) AWARE OF...

1. Within the last 3 years, the death of an occupant of the Property upon the Property Yes No
 2. An Order from a government health official identifying the Property as being contaminated by methamphetamine. (If yes, attach a copy of the Order.) Yes No
 3. The release of an illegal controlled substance on or beneath the Property Yes No
 4. Whether the Property is located in or adjacent to an "industrial use" zone Yes No
(In general, a zone or district allowing manufacturing, commercial or airport uses.)
 5. Whether the Property is affected by a nuisance created by an "industrial use" zone. Yes No
 6. Whether the Property is located within 1 mile of a former federal or state ordnance location. Yes No
(In general, an area once used for military training purposes that may contain potentially explosive munitions.)
 7. Whether the Property is a condominium or located in a planned unit development or other common interest subdivision. PROPERTY IS A TENANCY IN COMMON Yes No
 8. Insurance claims affecting the Property within the past 5 years Yes No
 9. Matters affecting title of the Property Yes No
 10. Material facts or defects affecting the Property not otherwise disclosed to Buyer Yes No
- Explanation, or (if checked) see attached; _____
- _____
- _____
- _____
- _____

B. REPAIRS AND ALTERATIONS: ARE YOU (SELLER) AWARE OF...

1. Any alterations, modifications, remodeling, replacements or material repairs on the Property (including those resulting from Home Warranty claims) major re-model Yes No
2. Ongoing or recurring maintenance on the Property (for example, drain or sewer clean-out, tree or pest control service) Yes No
3. Any part of the Property being painted within the past 12 months. Yes No

Buyer's Initials (AS) (_____)

Seller's Initials ([Signature]) (_____)

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SPQ REVISED 11/10 (PAGE 1 OF 4)

Reviewed by _____ Date _____



SELLER PROPERTY QUESTIONNAIRE (SPQ PAGE 1 OF 4)

Agent: Erin Thompson Phone: (415)531-9626 Fax: 415 296 6455 Prepared using zipForm® software
Broker: Summit Real Estate Group 1746 Union St San Francisco, CA 94123

Property Address: San Francisco, CA 94133

Date: _____

4. If this is a pre-1978 Property, were any renovations (i.e., sanding, cutting, demolition) of lead-based paint surfaces completed in compliance with the Environmental Protection Agency Lead-Based Paint Renovation Rule. Yes No

Explanation: _____

C. STRUCTURAL, SYSTEMS AND APPLIANCES: ARE YOU (SELLER) AWARE OF...

1. Defects in any of the following, (including past defects that have been repaired) heating, air conditioning, electrical, plumbing (including the presence of polybutelene pipes), water, sewer, waste disposal or septic system, sump pumps, well, roof, gutters, chimney, fireplace, foundation, crawl space, attic, soil, grading, drainage, retaining walls, interior or exterior doors, windows, walls, ceilings, floors or appliances. Yes No

Explanation: New heating, plumbing, electrical, water heater.

D. DISASTER RELIEF, INSURANCE OR CIVIL SETTLEMENT: ARE YOU (SELLER) AWARE OF...

1. Financial relief or assistance, insurance or settlement, sought or received, from any federal, state, local or private agency, insurer or private party, by past or present owners of the Property, due to any actual or alleged damage to the Property arising from a flood, earthquake, fire, other disaster, or occurrence or defect, whether or not any money received was actually used to make repairs. Yes No

Explanation: _____

E. WATER-RELATED AND MOLD ISSUES: ARE YOU (SELLER) AWARE OF...

1. Water intrusion into any part of any physical structure on the Property; leaks from or in any appliance, pipe, slab or roof; standing water, drainage, flooding, underground water, moisture, water-related soil settling or slippage, on or affecting the Property. Yes No
 2. Any problem with or infestation of mold, mildew, fungus or spores, past or present, on or affecting the Property. Yes No
 3. Rivers, streams, flood channels, underground springs, high water table, floods, or tides, on or affecting the Property or neighborhood. Yes No

Explanation: Property was vacant for over five years during that time, there were various leaks in the building.

F. PETS, ANIMALS AND PESTS: ARE YOU (SELLER) AWARE OF...

1. Pets on or in the Property. Yes No
 2. Problems with livestock, wildlife, insects or pests on or in the Property. Yes No
 3. Past or present odors, urine, feces, discoloration, stains, spots or damage in the Property, due to any of the above. Vacant for over five years. Yes No
 4. Past or present treatment or eradication of pests or odors, or repair of damage due to any of the above. Yes No
 If so, when and by whom _____

Explanation: Squatters in building prior to re-model

G. BOUNDARIES, ACCESS AND PROPERTY USE BY OTHERS: ARE YOU (SELLER) AWARE OF...

1. Surveys, easements, encroachments or boundary disputes. Yes No
 2. Use or access to the Property, or any part of it, by anyone other than you, with or without permission, for any purpose, including but not limited to, using or maintaining roads, driveways or other forms of ingress or egress or other travel or drainage. Yes No
 3. Use of any neighboring property by you. Yes No

Buyer's Initials (BS) (_____)

Seller's Initials (HR) (_____)



424 - 434 Francisco Street

Property Address: San Francisco, CA 94133

Date: _____

Explanation: _____

H. LANDSCAPING, POOL AND SPA:

ARE YOU (SELLER) AWARE OF...

- 1. Diseases or infestations affecting trees, plants or vegetation on or near the Property Yes No
- 2. Operational sprinklers on the Property Yes No
 - (a) If yes, are they automatic or manually operated.
 - (b) If yes, are there any areas with trees, plants or vegetation not covered by the sprinkler system Yes No
- 3. An operational pool heater on the Property Yes No
- 4. An operational spa heater on the Property Yes No
- 5. Past or present defects, leaks, cracks, repairs or other problems with the sprinklers, pool, spa, waterfall, pond, stream, drainage or other water-related decor including any ancillary equipment, including pumps, filters, heaters and cleaning systems, even if repaired Yes No

Explanation: _____

Seller said there had been no past lawsuits, court filings or governmental hearings affecting the property.

IONS:

ARE YOU (SELLER) AWARE OF...

- Yes No
- ments Yes No
- actual Yes No
- lectual Yes No

J. TITLE, OWNERSHIP AND LEGAL CLAIMS:

ARE YOU (SELLER) AWARE OF...

- 1. Any other person or entity on title other than Seller(s) signing this form Yes No
- 2. Leases, options or claims affecting or relating to title or use of the Property Yes No
- 3. Past, present, pending or threatened lawsuits, settlements, mediations, arbitrations, tax liens, mechanics' liens, notice of default, bankruptcy or other court filings, or government hearings affecting or relating to the Property, Homeowner Association or neighborhood Yes No
- 4. Any private transfer fees, triggered by a sale of the Property, in favor of private parties, charitable organizations, interest based groups or any other person or entity Yes No

Explanation: _____

K. NEIGHBORHOOD:

ARE YOU (SELLER) AWARE OF...

- 1. Neighborhood noise, nuisance or other problems from sources such as, but not limited to, the following: neighbors, traffic, parking congestion, airplanes, trains, light rail, subway, trucks, freeways, buses, schools, parks, refuse storage or landfill processing, agricultural operations, business, odor, recreational facilities, restaurants, entertainment complexes or facilities, parades, sporting events, fairs, neighborhood parties, litter, construction, air conditioning equipment, air compressors, generators, pool equipment or appliances, or wildlife Yes No

Explanation: _____

Buyer's Initials (AS) (_____)

Seller's Initials (JK) (_____)

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SPQ REVISED 11/10 (PAGE 3 OF 4)

Reviewed by _____ Date _____



424 - 434 Francisco

424 - 434 Francisco Street

Property Address: San Francisco, CA 94133

Date: _____

L. GOVERNMENTAL:

ARE YOU (SELLER) AWARE OF...

- 1. Ongoing or contemplated eminent domain, condemnation, annexation or change in zoning or general plan that applies to or could affect the Property Yes No
- 2. Existence or pendency of any rent control, occupancy restrictions, improvement restrictions or retrofit requirements that apply to or could affect the Property Yes No
- 3. Existing or contemplated building or use moratoria that apply to or could affect the Property Yes No
- 4. Current or proposed bonds, assessments, or fees that do not appear on the Property tax bill

Seller said the property had been vacant for many years for remodeling but said nothing evictions

- Yes No
- amenities Yes No
- ass, brush removal or Yes No
- affect the Yes No
- proposed Yes No
- Yes No

M. OTHER:

ARE YOU (SELLER) AWARE OF...

- 1. Reports, inspections, disclosures, warranties, maintenance recommendations, estimates, studies, surveys or other documents, pertaining to (i) the condition or repair of the Property or any improvement on this Property in the past, now or proposed; or (ii) easements, encroachments or boundary disputes affecting the Property Yes No
(If yes, provide any such documents in your possession to Buyer.)
- 2. Any past or present known material facts or other significant items affecting the value or desirability of the Property not otherwise disclosed to Buyer Yes No

Explanation: Property was vacant for many years and has been remodeled.

VI. (IF CHECKED) ADDITIONAL COMMENTS: The attached addendum contains an explanation or additional comments in response to specific questions answered "yes" above. Refer to line and question number in explanation.

Seller represents that Seller has provided the answers and, if any, explanations and comments on this form and any attached addenda and that such information is true and correct to the best of Seller's knowledge as of the date signed by Seller. Seller acknowledges (i) Seller's obligation to disclose information requested by this form is independent from any duty of disclosure that a real estate licensee may have in this transaction; and (ii) nothing that any such real estate licensee does or says to Seller relieves Seller from his/her own duty of disclosure.

Seller [Signature], Algoz Phoenix Rabbit, LLC Date 10/27/11

Seller _____ Date _____

By signing below, Buyer acknowledges that Buyer has read, understands and has received a copy of this Seller Property Questionnaire form.

Buyer [Signature] Date 12/27/2011

Buyer _____ Date _____

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