



# **CITY OF ONTARIO BUILDING APPEALS BOARD**

## **SPECIAL MEETING AGENDA**

**February 22, 2023**

**3:00PM**

**Ontario City Council Chambers  
303 East "B" Street, Ontario**

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**All documents for public review are on file with the Building Department located at City Hall, 303 East "B" Street, Ontario, CA 91764 and on the city website at [www.ontarioca.gov/agendas](http://www.ontarioca.gov/agendas)**

### **Roll Call**

**Eric Beilstein, Jeffrey Baughman, Tom Donahue, Merry Westerlin, Doug Andresen**

### **PUBLIC HEARINGS**

- 1. CONSIDERATION OF BUILDING APPEALS BOARD RESOLUTION NO. BAB 2023-001**

**RECOMMENDED ACTION: THAT THE BUILDING APPEALS BOARD ADOPT RESOLUTION NO. BAB 2023-001: A RESOLUTION OF THE CITY OF ONTARIO BUILDING APPEALS BOARD, AFFIRMING YELLOW TAG NOTICES POSTED ON JULY 15, 2022; AND A NOTICE TO VACATE, SECURE, AND REPAIR/DEMOLISH ISSUED JULY 20, 2022, AT THE PROPERTY COMMONLY KNOWN AS THE BEST ONTARIO INN, LOCATED AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762, APN 1011-382-65, AND MAKING FINDINGS IN SUPPORT THEREOF**

## **2. APPROVAL OF MINUTES**

Minutes for the special meeting of the Building Appeals Board of January 25,2023.

## **3. PUBLIC COMMENTS**

If you challenge any action of the Building Appeals Board in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or written correspondence delivered to the Building Appeals Board at, or prior to, the public hearing.

I, Emily Medina, Administrative Assistant of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on or before **February 21, 2023**, at least 24 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.

## **4. ADJOURNMENT**



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Administrative Assistant



# CITY OF ONTARIO BUILDING APPEALS BOARD

## SPECIAL MEETING MINUTES (NOT OFFICIAL UNTIL APPROVED)

January 25, 2023

2:15PM

Ontario City Council Chambers  
303 East "B" Street, Ontario

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### Call to Order

Meeting called to order at 2:15 pm

### ROLL CALL

<b>PRESENT:</b>	Acting Chair	Eric Beilstein
	Board Member	Merry Westerlin
	Board Member	Jeffrey Baughman
	Board Member	Tom Donahue

<b>ABSENT:</b>	Board Member	Doug Andresen
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Also present at this meeting were Counsel to Board of Appeal Bianca Sparks, City Attorney Charisse Smith, and Administrative Assistant Emily Medina.

### PUBLIC COMMENT

There were no public comments.

## HEARINGS

### A. BEST ONTARIO INN – APPEAL OF THE BUILDING OFFICIAL’S DETERMINATION TO “YELLOW TAG” THE MOTEL LOCATED AT 1045 W. MISSION BLVD FOR VARIOUS BUILDING CODE VIOLATIONS

Eric Beilstein has volunteered to be Chair for the day.

Witnesses were then called upon to give testimony as follows:

City Attorney Charisse Smith asked questions of Matt Monteith. Matt Monteith responded.

Attorney Frank Weiser, representing Kalpesh Solanki asked questions of Matt Monteith. Matt Monteith responded.

City Attorney Smith asked questions of Donald Flores. Donald Flores responded.

Attorney Weiser asked questions of Donald Flores. Donald Flores responded.

Attorney Weiser asked questions of James Caro. James Caro responded.

City Attorney Smith asked questions of James Caro. James Caro responded.

Attorney Weiser asked questions of Kalpesh Solanki. Kalpesh Solanki responded.

City Attorney Smith asked questions of Kalpesh Solanki. Kalpesh Solanki responded.

Attorney Weiser asked questions of Peter Canaan. Peter Canaan responded.

City Attorney Smith asked questions of Peter Canaan. Peter Canaan responded.

Attorney Weiser asked questions of Vijay Patel. Vijay Patel responded.

City Attorney Smith asked questions of Vijay Patel. Vijay Patel responded.

Attorney Weiser asked questions of Depok Patel. Depok Patel responded.

City Attorney Smith asked questions of Depok Patel. Depok Patel responded.

Attorney Weiser asked questions of Bharat Patel. Bharat Patel responded.

City Attorney Smith asked questions of Bharat Patel. Bharat Patel responded.

City Attorney Smith asked questions of Klaus DeGuzman. Klaus DeGuzman responded.

Attorney Weiser asked questions of Klaus DeGuzman. Klaus DeGuzman responded.

Chair Beilstein asked questions of Donald Flores. Donald Flores responded.

Chair Beilstein asked questions of Kalpesh Solanki. Kalpesh Solanki responded.

Board Member Donahue asked questions of the Counsel Bianca Sparks. Counsel Bianca Sparks responded.

Board Member Donahue asked questions of Kalpesh Solanki and Plaintiff's Council. Kalpesh Solanki responded.

Board Member Westerlin asked questions of James Caro. James Caro responded.

Board Member Baughman asked questions of James Caro. James Caro responded.

Chair Beilstein asked questions of James Caro. James Caro responded.

Counsel Sparks asked questions of City's Council. City's Council responded.

Counsel Sparks reads Section 501.1 of the Uniform Code.

Counsel Sparks reads Section 501.3 of the Uniform Code

**MOTION:** Motion by Board Member Baughman, seconded by Board Member Westerlin, and passed by a vote of 4-0, with Board Member Andresen absent, to Direct Legal Counsel to draft a resolution that contains numbers 2-9 of the proposed resolution before them with the requisite findings, which shall be adopted at the next hearing of the Board to be scheduled at a future date.

The hearing will be continued on another date for the board to review revised resolution.

**CHAIRMAN BEILSTEIN ADJOURNED THE MEETING AT 7:45 p.m.**

Respectfully Submitted,

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Emily Medina, Administrative Assistant

Approved by,

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Eric Beilstein, Acting Chair

**RESOLUTION NO. BAB 2023 - 001**

**A RESOLUTION OF THE CITY OF ONTARIO BUILDING APPEALS BOARD, AFFIRMING YELLOW TAG NOTICES POSTED ON JULY 15, 2022; AND A NOTICE TO VACATE, SECURE, AND REPAIR/DEMOLISH ISSUED JULY 20, 2022, AT THE PROPERTY COMMONLY KNOWN AS THE BEST ONTARIO INN, LOCATED AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762, APN 1011-382-65, AND MAKING FINDINGS IN SUPPORT THEREOF**

**WHEREAS**, the property located at 1045 West Mission Boulevard, Ontario, California 91762, Assessor's Parcel Number 1011-382-65 (the "Property") operates as the Best Ontario Inn, and according to title records is owned by Kalpesh Solanki ("Owner"); and

**WHEREAS**, on or about October 19, 2021, the City sent a Notice of Complaint (a copy of the Notice is attached hereto as Exhibit A and incorporated herein by reference) to the Owner concerning a guest staying at the Property in excess of 30 days, an inoperative vehicle parked on the Property, graffiti, an accumulation of trash and debris, and shopping baskets located throughout the Property; and

**WHEREAS**, on or about November 9, 2021, the City received a letter from the Owner's attorney rejecting the City's Notice of Complaint, and requesting immediate withdrawal of same (a copy of the letter is attached hereto as Exhibit B, and incorporated herein by reference); and

**WHEREAS**, on or about June 28, 2022, the City's Police Department contacted the City's Building Department concerning a complaint regarding collapsed ceilings in two units at the Property. It was determined that a gun shot caused a water pipe to leak, which then caused the ceilings to collapse. The Property was inspected by the City on June 28, 2022, and the City's Building Inspector and Building Official confirmed that unpermitted construction was actively taking place in several units, and there was extensive water damage affecting four units on the Property. City Staff issued a Stop Work Order (a copy of the Stop Work Order is attached hereto as Exhibit C, and incorporated herein by reference); and

**WHEREAS**, on or about July 8, 2022, the City received a complaint that there was an unauthorized hauler on the property, in violation of Section 6-3.209(A) and (B) of the City's Municipal Code ("Code"); and

**WHEREAS**, on or about July 12, 2022, the City's Senior Community Improvement Officer went to the Property and noted that there was continuing construction work taking place despite the City's aforementioned Stop Work Order; and

**WHEREAS**, on or about July 12, 2022, the City's Senior Community Improvement Officer met with the Property manager and requested to inspect all units based on the visible unpermitted construction. However, the Property manager denied the City's request pursuant to the November 9, 2021 letter; and

**WHEREAS**, on or about July 12, 2022, a Notice of Need to Inspect (a copy of the Notice is attached as Exhibit D and incorporated herein by reference), was issued by the City to the Property manager; and

**WHEREAS**, pursuant to Section 8-11.01 of the City's Code, the City adopted the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings ("Uniform Code"); and

**WHEREAS**, pursuant to Section 201.1 of the Uniform Code, the Building Official is authorized to enforce the provisions of the Uniform Code; and

**WHEREAS**, pursuant to Section 1822.50 of the California Code of Civil Procedure, an inspection warrant is a written order, signed by a judge, directed to a local official, commanding him to conduct any inspection authorized by state or local law or regulation relating to building, fire, safety, plumbing, electrical, health, labor or zoning; and

**WHEREAS**, the City obtained Inspection Warrant No. MISC223360 from the California Superior Court on July 13, 2022, authorizing it to conduct an inspection of all portions of the interior and exterior of the Property, including the swimming pool (a copy of the Inspection Warrant is attached hereto as Exhibit E, and incorporated herein by reference); and

**WHEREAS**, pursuant to the Inspection Warrant, on or about July 15, 2022, City Staff conducted an inspection of the Property finding and documenting several substandard conditions/violations of the City's Code, including but not limited to: unpermitted construction/alterations, missing or removed smoke detectors, substandard installation of lighting fixtures, plumbing alterations, graffiti, exposed wires, unpermitted electrical in all rooms, electrical too close to bath and shower services, water damaged ceilings, mold, a second floor balcony/passageway in deteriorated or damaged condition, and an unprotected/hazardous swimming pool. Photographs documenting the City's inspection are attached hereto as Exhibit F, and incorporated herein by reference; and

**WHEREAS**, pursuant to Section 403, subsection 2 of the Uniform Code, if a building or structure is in such a condition to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated; and

**WHEREAS**, as a result of the City's inspection, and based on the substandard conditions and violations of the City's Code, on or about July 15, 2022, the City posted yellow tag Notices to Vacate at the Property, declaring the Property as unsafe to occupy (copies of the Notices to Vacate are attached hereto as Exhibit G and incorporated herein by reference); and

**WHEREAS**, on or about July 17, 2020, the City received a letter from the Law Offices of Frank Weiser entitled "Appeal of Inspection and Closure of Best Ontario Inn located at 1045 West Mission Blvd., Ontario, CA 91608/My Clients: Owner and Operator Kalpesh Solanki and On-Site Managers Bharat Patel and Jaya Patel" ("July 17<sup>th</sup> Letter"), (a copy of the July 17<sup>th</sup> Letter is attached hereto as Exhibit H, and incorporated herein by reference); and

**WHEREAS**, pursuant to the July 17<sup>th</sup> Letter, Mr. Solanki and Mr. and Mrs. Patel were requesting “an immediate appeal of the inspection and closure of the motel”; and

**WHEREAS**, because, as a result of the City’s inspection, the City’s Building Official found, determined and declared that there were dangerous conditions on the Property which constituted an immediate danger to the life, limb, property or safety of the public or occupants of the buildings, on or about July 20, 2022, in accordance with the provisions of the Uniform Code, the City issued a Notice and Order to Vacate, Secure, and Repair/Demolish dated July 20, 2022 (“Notice and Order”), (a copy of the Notice and Order is attached hereto as Exhibit I and incorporated herein by reference); and

**WHEREAS**, in response to the City’s July 20, 2022 Notice and Order, on or about August 17, 2022, the City received an “Appeal of Notice and Order to Vacate, Secure, and Repair/Demolish Property Located at 1045 West Mission Boulevard, Ontario, CA 91762; APN No. 1011-382-65; Date of City Notice: 7/20/22” (the “Appeal”) (a copy of the Appeal is attached hereto as Exhibit J and incorporated herein by reference); and

**WHEREAS**, pursuant to Section 501.1 of the Uniform Code, if a building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with Section 404 of the Uniform Code, the appeal must be filed within 10 days from the date of the service of the notice and order of the building official; and

**WHEREAS**, in accordance with the provisions of Section 501.3 of the Uniform Code, an appeal hearing must be held not less than 10 days nor more than 60 days from the date the appeal was filed with the building official; and

**WHEREAS**, on or about October 3, 2022, the City provided the Owner, along with Mr. and Mrs. Patel (the Owner, and Mr. and Mrs. Patel are collectively “Appellants”) notice of hearing on the appeal, which was set for October 14, 2022 (a copy of the letter to Appellants is attached hereto as Exhibit K, and incorporated herein by reference); and

**WHEREAS**, due to scheduling issues presented by both Appellants’ counsel, and the City, the hearing was moved to January 25, 2023; and

**WHEREAS**, on January 25, 2023, the City’s Building Appeals Board conducted a duly noticed public meeting on the Appeal, and considered all testimony written and oral.

**NOW, THEREFORE**, the City of Ontario Building Appeals Board, hereby finds, determines, and resolves as follows:

**SECTION 1:** The above recitals are true and correct and are incorporated herein by reference.



**SECTION 2:** The Board, after independent review, analysis, and consideration of the information contained in the Staff Report, and the oral and written testimony presented by the City and Appellants during the Appeal hearing, hereby finds as follows:

- a. That a timely appeal hearing was given to Appellants.
- b. That on July 15, 2022, there were in fact unpermitted alterations to the Property in violation of California Building Code Section 1.8.4.1.
- c. That on July 15, 2022, there were in fact electrical system alterations endangering the life, limb, health, property, safety or welfare of the public or occupants thereof, thereby constituting a substandard building pursuant to Health & Safety Code Section 17920.3(d).
- d. That on July 15, 2022, there were in fact unpermitted plumbing and/or gas alterations in violation of California Building Code Section 1.8.4.1.
- e. That the conditions found on July 15, 2022 were sufficient to render the building dangerous as defined by Section 302 of the Uniform Code, including the following:
  - i. The second floor balcony/passageway was in a dilapidated and/or damaged state. Pursuant to definition 2 of Section 302 of the Uniform Code, a dangerous condition is said to exist “[w]henver the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic”.
  - ii. There was water damage identified within various units, on wood studs, and roof framing members. As set forth in definition 4 of Section 302 of the Uniform Code, a dangerous condition is said to exist “[w]henver any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose, or location”.
  - iii. There were various units under construction without any permits, approvals, or inspections conducted by the City. In accordance with definition 9, of Section 302 of the Uniform Code, a dangerous condition is said to exist “[w]henver for any reason, the building or structure or any portion thereof, is manifestly unsafe for the purpose for which it is being used”.
  - iv. Window change-outs were done without permits or approvals from the City, and smoke detectors were removed and/or non-operative. Pursuant to definition 13 of Section 302 of the Uniform Code, a dangerous condition is said to exist “[w]henver any building or structure has been constructed, exists or is

maintained in violation of specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings”.

v. There was substandard maintenance and/or repairs of windows, plumbing and electrical systems that created unsanitary conditions. Under definition 15 of Section 302 of the Uniform Code, a dangerous condition is said to exist “[w]henver a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease”.

vi. There was trash, debris, graffiti and/or unsightly conditions throughout the Property. In accordance with definition 17 of Section 302 of the Uniform Code, a dangerous condition is said to exist “[w]henver any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence”.

- f. That there is sufficient evidence to find that the conditions observed on July 15, 2022, and described in the Notice and Order issued on July 20, 2022, including the collapse of one area of the building due to leaking plumbing, and the numerous unpermitted plumbing alterations and electrical alterations made to the remainder of the building, which was being occupied by members of the public, were substantial enough to constitute an immediate danger to the life, limb, property or safety of the public or occupants of the building(s) sufficient to substantiate Yellow Tag and Correction Notices being posted at the Property on July 15, 2022.
- g. That there is sufficient evidence to find that the conditions observed on July 15, 2022, and described in the Notice and Order issued on July 20, 2022, including the hazardous construction and/or hazardous conditions at the Property, the collapse of one area of the building due to leaking plumbing, and the numerous unpermitted plumbing alterations and electrical alterations made to the remainder of the building, which was being occupied by members of the public, were substantial enough to constitute an immediate danger to the life, limb, property or safety of the public or occupants of the building(s), and substantiated a Notice to Vacate within 72 hours.
- h. That under the circumstances specific to this case, a Notice and Order to Vacate within 72 hours from the date of the Notice and Order was reasonably issued pursuant to Sections 401.2(3.2) and 403 of the Uniform Code.

- i. Appellants shall comply with the directives set forth in the Yellow Tag and Correction Notices, and the Notice and Order to Vacate.

**SECTION 3:** That a copy of this Resolution shall be mailed by certified mail, postage prepaid, to Appellants at the Property, with a copy to Appellants' counsel, in accordance with Section 605.7 of the Uniform Code.

**SECTION 4:** That this decision by the Building Appeals Board is final, without the right of further in-house hearing or appeal. Judicial review of any final administrative decision of the Appeals Board is subject to the time limits set forth in California Code of Civil Procedure Section 1094.6.

**SECTION 5:** The provisions of this Resolution are severable and if any provision, clause, sentence, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts thereof of the Resolution or their applicability to other persons or circumstances.

**SECTION 6:** That the Board Secretary shall certify to the adoption of this Resolution and the same shall be in full force and effect.

**PASSED, APPROVED AND ADOPTED** by the Building Appeals Board of the City of Ontario at a special meeting held on February 22, 2023, by the following vote:

AYES:	BOARD MEMBERS:
NOES:	BOARD MEMBERS:
ABSTAIN:	BOARD MEMBERS:
ABSENT:	BOARD MEMBERS:

\_\_\_\_\_  
Acting Board Chairperson

ATTEST:

\_\_\_\_\_  
Board Secretary

# **EXHIBIT A**

CITY OF



ONTARIO

303 EAST B STREET | ONTARIO, CALIFORNIA 91764

(909) 395-2000 FAX (909) 395-2070 [OntarioCA.gov](http://OntarioCA.gov)

PAUL S. LEON  
MAYOR

## NOTICE OF COMPLAINT

SHEILA MAUTZ  
CITY CLERK

ALAN D. WAPNER  
MAYOR PRO TEM

October 21, 2021

JAMES R. MILHISER  
TREASURER

JIM W. BOWMAN  
DEBRA DORST-PORADA  
RUBEN VALENCIA  
COUNCIL MEMBERS

Kalpesh P Solanki  
6939 Schaerfer Ave D235  
Chino, CA 91710

SCOTT OCHOA  
CITY MANAGER

RE: 1045 West Mission Boulevard, Ontario, CA 91762  
Case Number CE21001487

Dear Property Owner:

It has come to the attention of the Community Improvement Department that a condition may exist at the above referenced property that is in violation of the Ontario Municipal Code. Our information indicates that the following conditions may exist:

- Guest are staying in the Motel / Inn for a length of time exceeding 30 days. Civil Code Sec 1940.1
- There is an inoperative vehicle parked on the property. Ontario Municipal Code Sections 5-12.01 and 5-22.02 (h) prohibit storage of wrecked or otherwise disabled or abandoned vehicles, except in cases of emergency and in no event for a period longer than five (5) days, anywhere other than within a fully enclosed space, carport garage, or approved automobile wrecking yard.
- There is graffiti on the property. Ontario Municipal Code Section 5-22.02 (q) prohibits any device, decoration, design, graffiti, fence structure, clothes line, or vegetation which is unsightly by reason of its condition or its inappropriate location. If you [would] like City assistance to remove the graffiti, please contact the Graffiti Hotline at (909) 395-2626.
- There is an accumulation of trash and debris throughout the property.
- There is an accumulation of shopping baskets throughout the property.

If our information is incorrect and the conditions listed above do not exist, please disregard this notice and accept our apology.

If the conditions do exist, please consider this notice as a request to correct the conditions or contact our office to discuss a compliance schedule within 14 days. A Community Improvement Officer will be sent out to verify that the conditions have been corrected at the end of the 14-day period. If the violations still exist an administrative citation may be issued with no further warning and will include a fine.

The safety of our residents and employees is of the utmost importance, and we want to ensure that the City is taking every precaution possible to assist with preventative measures associated with the spread of the COVID-19 virus. As a result, an investigation of the conditions may be delayed.

Should you have any questions or comments on this matter, please contact Douglas Mendoza at (909) 395-2323 and reference the Case Number shown above

Sincerely,

Douglas Mendoza  
Community Improvement Officer

COMMUNITY IMPROVEMENT DEPARTMENT | Angela Magaña, Director  
208 West Emporia Street • Ontario, CA 91762 | (909) 395-2007 | [OntarioCA.gov/CommunityImprovement](http://OntarioCA.gov/CommunityImprovement)

## **EXHIBIT B**

LAW OFFICES

Member of the Bar:

Refer To File No.

**FRANK A. WEISER**

3460 Wilshire Boulevard, Suite 1212  
Los Angeles, California 90010  
Telephone: (213) 384-6964  
Fax: (213) 383-7368

November 9, 2021

United States Supreme Court  
United States Court of Appeals for Third Circuit  
United States Court of Appeals for Fourth Circuit  
United States Court of Appeals for Fifth Circuit  
United States Court of Appeals for Sixth Circuit  
United States Court of Appeals for Eighth Circuit  
United States Court of Appeals for Ninth Circuit  
United States Court of Appeals for Tenth Circuit  
United States Tax Court.  
Master of Law in Taxation

**BY E-MAIL AND PERSONAL DELIVERY  
AND FEDERAL EXPRESS**

Douglas Mendoza  
Community Improvement Officer  
City of Ontario  
Community Improvement  
208 West Emporia Street  
Ontario, CA 91762  
E-Mail: dmendoza@ontarioca.org

Re: Notice of Complaint and Inspection of  
Best Ontario Inn located at 1045 West  
Mission Blvd, Ontario, CA 91608/My client:  
Owner and Operator Kalpesh P. Solanki/  
Case No. CE21001487

Dear Mr. Mendoza:

I represent Kalpesh P. Solanki, the owner and operator of the Best Ontario Inn located at 1045 West Mission Blvd, Ontario, CA 91608 ("Motel"). I write to you in response to your Notice of Complaint letter to my client dated October 21, 2021.

The complaint is frivolous and wholly denied by my client. No such nuisance conditions exist at the motel nor have such conditions ever existed during the course of his ownership and operation of the motel.

Further, my client does not consent to your inspection of the motel without a court order.

Douglas Mendoza  
Community Improvement Officer  
City of Ontario  
Community Improvement  
208 West Emporia Street  
Ontario, CA 91762  
E-Mail: dmendoza@ontarioca.org  
Re: Notice of Complaint and Inspection of  
Best Ontario Inn located at 1045 West  
Mission Blvd, Ontario, CA 91608/My client:  
Owner and Operator Kalpesh P. Solanki/  
Case No. CE21001487  
November 9, 2021  
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(By E-Mail and Personal  
Delivery and Federal Express)

It is well settled and long standing U.S. Supreme Court case law extends the clear protections of the Fourth Amendment of the U.S. Constitution to the secure and private areas of his motel. As such any entry cannot lawfully be accessed without my client's and the tenant's consent. Case law is clear that my client has no authority to access the units that his residents do not consent to without an appropriate administrative warrant under California Code of Civil Procedure §§ 1822.50, et seq. See Stoner v California, 376 U.S. 483 (1964).

Further, any demand that my clients submit all pertinent documents regarding the motel is wholly unconstitutional. This is now established by my recent successful litigation as counsel of record on behalf of a group of motel owners in the City of L.A. in the U.S. Supreme Court case of City of Los Angeles v Patel, 135 S.Ct. 2443 (2015) in which the Supreme Court in a 5-4 decision affirmed a United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") decision facially invalidating on Fourth Amendment grounds a motel registration records search ordinance. See Patel v City of Los Angeles, 758 F.3d 1058 (9th Cir. 2013)(en banc).

In the Patel case, the Supreme Court held that even when there is a statute or ordinance that compels motel owners (and the principle applies to all business owners) to produce business documents on demand without a court order or consent upon the imposition of civil or criminal penalties for failure to do so, such a law is facially and completely unconstitutional under the Fourth Amendment as the Constitution requires that the owner first be given judicial process in order to contest the matter.



Douglas Mendoza  
Community Improvement Officer  
City of Ontario  
Community Improvement  
208 West Emporia Street  
Ontario, CA 91762  
E-Mail: dmendoza@ontarioca.org  
Re: Notice of Complaint and Inspection of  
Ontario Inn located at 1045 West  
Mission Blvd, Ontario, CA 91608/My client:  
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November 9, 2021

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(By E-Mail and Personal  
Delivery and Federal Express)

I mention the Patel case only to demonstrate the City's previous errors under the Fourth Amendment in enforcing a motel ordinance and also since the residential hotel ordinance also has a similar provision regarding rental registration records.

You cannot make unilateral demands without affording the motel operator, such as my client, a subpoena and judicial process to contest the matter. California state law parallels the protections that federal law now establishes under Patel.

I successfully litigated as counsel of record the Patel case. Some of my other published cases are Herrera v City of Palmdale, 916 F.3d 1037 (9th Cir. 2019); Patel v Penman, 103 F.3d 858 (9th Cir.1996); Patel v. City of San Bernardino, 310 F.3d 1134 (9th Cir. 2002); City of San Bernardino Hotel/Motel Association v City of San Bernardino, 59 Cal.App.4th 237.

Further, the U.S. Supreme Court has held in two seminal decisions that the Fourth Amendment protects a person from the government trespassing on a person's private property for the purposes of gathering information. This test, called the "common law trespassory test" finds its constitutional foundation from the time of the adoption of the Fourth Amendment and predates and is independent of the reasonable expectation of privacy test. Florida v Jardines, 569 U.S. 1(2013) and United States v Jones, 565 U.S. 400 (2012).

Douglas Mendoza  
Community Improvement Officer  
City of Ontario  
Community Improvement  
208 West Emporia Street  
Ontario, CA 91762  
E-Mail: dmendoza@ontarioca.org  
Re: Notice of Complaint and Inspection of  
Best Ontario Inn located at 1045 West  
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Case No. CE21001487

November 9, 2021

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(By E-Mail and Personal  
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In a Ninth Circuit published case that I litigated on behalf of another motel owner, the Ninth Circuit held that "common law trespassory test" does not apply to the public areas of a private commercial establishment such as a motel but reaffirmed that the private secured areas are subject to Fourth Amendment strictures under the reasonable expectation of privacy test. See Patel v City of Montclair, 798 F.3d 895 (9th Cir. 2015); See v Seattle, 387 U.S. 541 (1967) (Fourth Amendment applies to private commercial establishments); Marshall v Barlow's, Inc., 436 U.S. 307 (same).

In another published case that I recently litigated, the Ninth Circuit reaffirmed the United States Supreme Court Patel holding with respect to the hotel industry, unlike some other businesses, that hotels enjoy "core" Fourth Amendment rights. See Killgore v City of South El Monte, 3 F.4th 1186 (9th Cir. 2021).

I trust that you will honor my client's Fourth Amendment rights and not enter the motel property, or they will be forced to sue you and your code enforcement officers and the City under 42 U.S.C. section 1983 in the United States District Court for the Central District of California for violation of their federal civil rights. I further believe your notice of complaint should be immediately withdrawn.

Douglas Mendoza  
Community Improvement Officer  
City of Ontario  
Community Improvement  
208 West Emporia Street  
Ontario, CA 91762  
E-Mail: [dmendoza@ontarioca.org](mailto:dmendoza@ontarioca.org)  
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(By E-Mail and Personal  
Delivery and Federal Express)

I can be reached directly at (213) 399-7806 or by e-mail at [maimons@aol.com](mailto:maimons@aol.com).

Sincerely,



Frank A. Weiser  
Attorney at Law

cc:Kalpesh P. Solanki  
Donnie Flores  
Community Improvement Officer  
(E-Mail: [dflores@ontarioca.org](mailto:dflores@ontarioca.org))

# **EXHIBIT C**

1045 West Mission Boulevard

City of Ontario  
BUILDING DEPARTMENT

Correction Notice       Stop Work

Permit Number: \_\_\_\_\_

Address: 1045 W Mission Blvd

Type of Inspection: Dispatched by PD

After the following corrections have been completed call the inspection request line to schedule re-inspection at (905) 395-2362 or visit [automation.ontarioca.gov/onlinepermits](http://automation.ontarioca.gov/onlinepermits)

1) Stop work on Unit Downstairs  
Provide permits for NEW  
electrical, plumbing, Drywall  
etc.

2) Provide permits for removal  
Refr in 4 Units upstairs

3) Provide permit for electrical  
- plumbing repair + Repair  
of Roto Start

4) Do Not Cover until  
inspected

Inspector: [Signature] Date: 6/22/22 Time: \_\_\_\_\_

Office Hours: Monday – Friday 7:30 - 8:00 A.M. & 4:00- 4:30 P.M.  
Inspector's Telephone Number: (905) 395-2362

Remove, Alter, or Cover this sign  
Not Authorized by City of Ontario

# **EXHIBIT D**

CITY OF ONTARIO  
COMMUNITY IMPROVEMENT DEPARTMENT  
Telephone (909) 395-2007

208 West Emporia Street  
Ontario, California 91762  
Fax (909) 986-0427

## NOTICE OF NEED TO INSPECT

Date: 7/12/2022 Case Number: CE 21001487  
Violation Address: 104E WEST MISSOURI BLVD APN: 1011 302 05  
Property Owner(s): KALPESH P SOLANKI  
Mailing Address: 6989 SCHIEFER AVE D225

Dear Property Owner:

The Community Improvement Department has previously notified you that an inspection is requested at the above-referenced property. The purpose of our inspection is to ensure that all properties in the City of Ontario meet all standards established by the Ontario Municipal Code.

We are requesting to inspect the following:

- Complete exterior                       Complete interior  
 Garage     Swimming pool  
 Other OFFICE, LOBBY, UTILITY ROOM(S)

Please contact me at 909-395-2520 within  72 hours     14 days from the date of this notice to schedule an appointment to make this inspection.

**Not responding to this Notice or not making your property available for inspection in a timely manner may result in the Community Improvement Department obtaining a warrant to conduct this inspection, which may involve legal and administrative fees. Thank you in advance for your cooperation.**

Officer's Name (please print): D. FLORES #15

White-Posting

Canary-Regular Mail

Pink-File

Rev. 2/2019

*D*  
7/12/22

# **EXHIBIT E**



THE LAW OFFICES OF  
CHARISSE L. SMITH  
8301 UTICA AVENUE, SUITE 102  
RANCHO CUCAMONGA, CALIFORNIA 91730

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RUBEN DURAN, Bar No. 197780  
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RICHARD T. EGGER, Bar No. 162581  
richard.egger@bbklaw.com  
VENUS G. TRUNNEL, Bar No. 179980  
venus.trunnel@bbklaw.com  
BEST BEST & KRIEGER LLP  
2855 E. Guasti Road  
Suite 400  
Ontario, California 91761  
Telephone: (909) 989-8584  
Facsimile: (909) 944-1441

CHARISSE L. SMITH, Bar No. 213646  
LAW OFFICES OF CHARISSE L. SMITH  
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Telecopier: (909) 257-0649  
csmith@clsmithlaw.com

Attorneys for Plaintiff, City of Ontario

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
RANCHO CUCAMONGA DISTRICT

IN THE MATTER OF THE  
APPLICATION OF THE CITY OF  
ONTARIO TO INSPECT 1045 WEST  
MISSION BOULEVARD, ONTARIO,  
CALIFORNIA

Warrant No. **MISC 223360**  
Judge:  
**(PROPOSED) INSPECTION WARRANT**  
**(Code Civ. Proc., §§ 1822.50-1822.57)**

EXEMPT FROM FILING FEES PURSUANT  
TO GOVERNMENT CODE § 6103

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
RANCHO CUCAMONGA DISTRICT

**JUL 13 2022**

BY *Alexandra L. Quezada*  
ALEXANDRA L. QUEZADA, DEPUTY

THE LAW OFFICES OF  
CHARISSEL SMITH  
8301 UTICA AVENUE, SUITE 102  
RANCHO CUCAMONGA, CALIFORNIA 91730

1 (PROPOSED) INSPECTION WARRANT

2  
3 COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

4 THE PEOPLE OF THE STATE OF CALIFORNIA: To any Community Improvement  
5 Officer, the Building Official or his designee(s), the Fire Marshall or his designee(s), any Police  
6 Officer, or any Animal Control Officer of the City of Ontario, California, and any authorized  
7 contractor acting as agent of the City of Ontario:

8 You are hereby commanded to conduct an abatement for purposes of inspecting the property  
9 located at 1045 West Mission Boulevard, in the City of Ontario, California, Assessor's Parcel  
10 Number 1011-382-65-0000 (the "Property"), which consists of motel/inn named Best Ontario Inn.  
11 According to title records, the Property is owned by Kalpesh P. Solanki (the "Owner").

12 Proof, by affidavit, was made this day before me, by Ontario Senior Community  
13 Improvement Officer Donald Flores, that there is just and probable cause for believing that there  
14 are conditions on and about the Property that constitute a violations of the Ontario Municipal Code  
15 ("OMC"), which adopts the California Building Code by reference, and that these conditions may  
16 constitute an immediate danger to the life, limb, property or safety of the public or occupants of the  
17 building(s).

18 Therefore, you and each of you are hereby commanded and authorized to:

- 19 a. Use reasonable force and forcibly enter any and all portions of the exterior and  
20 interior of all structures on the Property, as well as any rooms, including all guest  
21 rooms, areas under construction, the office, lobby, swimming pool, and utility  
22 room(s) on the Property, with the Ontario Police Department's assistance, Fire  
23 Department personnel's assistance, and/or the assistance of Animal Control, to  
24 conduct a thorough inspection of said areas in order to enforce the provisions of the  
25 OMC, to determine whether the Property complies with the OMC, and to ascertain  
26 the nature and extent of any potential OMC violations;
- 27 b. Cite any further violations of the Ontario Municipal Code, should they be identified,  
28 while the City is on the Property;

- 1           c.     Re-secure the Property, if necessary, after completion of the inspection; and  
2           d.     Videotape and/or photograph any and all of the aforementioned activities.

3           This Inspection Warrant is necessary because of the Owner and/or occupant's failure to  
4 comply with the Ontario Municipal Code. The purpose of this Warrant is to avoid further violations  
5 of such laws. Any peace officer may accompany the execution of this Warrant in order to keep the  
6 peace and to prevent any interference with the execution of this Warrant. Any animal control officer  
7 may accompany the execution of this Warrant in order to control or take into custody any  
8 uncontrolled animal on the premises. Any Fire Department personnel may accompany the  
9 execution of this Warrant to inspect for fire hazards.

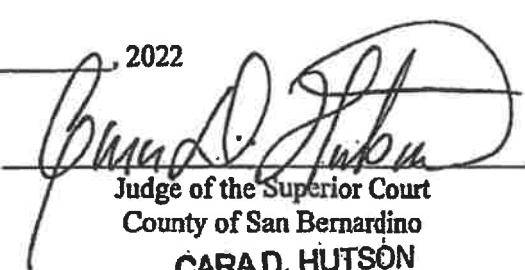
10           The inspection may be conducted without the presence of the Owners and/or any occupants  
11 since execution of this Warrant in the absence of such persons is reasonably necessary to effectuate  
12 the purpose of the Ontario Municipal Code.

13           If the Property is secured by a padlock and/or chained fence, the lock or fence may be cut;  
14 however, the lock or fence must be re-secured when the inspection is completed. Notice of this  
15 Warrant shall be given at least 24 hours before this Inspection Warrant is executed by posting  
16 written notice on the Property. Unless otherwise extended or renewed, this Inspection Warrant shall  
17 be effective for a period of fourteen (14) days from the date of issuance specified below. In addition,  
18 this Inspection Warrant shall be returned to this Court within thirty (30) days following its  
19 execution. The Court grants permission to use reasonable force with the assistance of the Ontario  
20 Police Department or a locksmith, if necessary, to gain entry to the Property or any locked rooms  
21 inside the Property.

22           IT IS SO ORDERED.

23  
24           Dated: This 13<sup>th</sup> day of July, 2022



  
Judge of the Superior Court  
County of San Bernardino  
CARA D. HUTSON

**24 HOUR NOTICE OF EXECUTION OF INSPECTION WARRANT AT  
1045 WEST MISSION BOULEVARD, ONTARIO, CA**

**TO: KALPESH P. SOLANKI**

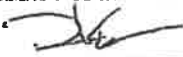
**OR ANY OCCUPANT OF 1045 WEST MISSION BOULEVARD, ONTARIO, CA**

NOTICE IS HEREBY GIVEN to you as the owners or occupants of the premises located at 1045 WEST MISSION BOULEVARD, in the City of Ontario, California, Assessor's Parcel Number 1011-382-65-0000 (the "Property"), that on the 13th day of July, 2022, Judge Cara D. Hutson of the Superior Court, County of San Bernardino, issued a warrant for the purpose of inspecting the Property, including the exterior and interior of all structures on the Property, as well as any rooms and areas under construction, the office, lobby, swimming pool and utility room(s) on the Property, to determine the presence and extent of the violations of the Ontario Municipal Code and its adopted codes.

Access to the Subject Property is sought for the purpose of such inspection, more specifically to:

- a. Use reasonable force and forcibly enter any and all portions of the exterior and interior of all structures on the Property, as well as any rooms, all guest rooms, areas under construction, the office, lobby, swimming pool and utility room(s) on the Property, with the Ontario Police Department's assistance, Fire Department personnel's assistance, and/or the assistance of Animal Control, to conduct a thorough inspection of said areas in order to enforce the provisions of the OMC, to determine whether the Property complies with the OMC, and to ascertain the nature and extent of any potential OMC violations;
- b. Cite any violations of the OMC, should they be identified, while the City is on the Property;
- c. Re-secure the Property, if necessary, after completion of the inspection; and
- d. Videotape and/or photograph any and all of the aforementioned activities.

Access to the premises for the above-described activities is scheduled for July 15th, 2022 between 8:00 a.m. to 6:00 p.m. The inspection is scheduled to take one (1) day, but the process may be shorter or longer. You have the right to be present during the execution of the warrant but are not required to be present. Refusal to permit the inspection is punishable as a misdemeanor pursuant to Section 1822.57 of the California Code of Civil Procedure.

  
\_\_\_\_\_  
Donald Flores  
Senior Community Improvement Officer  
City of Ontario

Copy to Owner c/o Frank A. Weiser, Attorney at Law (via email: maimons@aol.com)

THE LAW OFFICES OF  
CHARISSE L. SMITH  
8301 UTICA AVENUE, SUITE 102  
RANCHO CUCAMONGA, CALIFORNIA 91730

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Telecopier: (909) 257-0649  
csmith@clsmithlaw.com

Attorneys for Plaintiff, City of Ontario

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
RANCHO CUCAMONGA DISTRICT

IN THE MATTER OF THE  
APPLICATION OF THE CITY OF  
ONTARIO TO INSPECT 1045 WEST  
MISSION BOULEVARD, ONTARIO,  
CALIFORNIA

EXEMPT FROM FILING FEES PURSUANT  
TO GOVERNMENT CODE § 6103

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
RANCHO CUCAMONGA DISTRICT

JUL 13 2022

BY Alexandra L. Quezada  
ALEXANDRA L. QUEZADA, DEPUTY

Warrant No. WISC223360  
Judge:

AFFIDAVIT OF DONALD FLORES IN  
SUPPORT OF INSPECTION WARRANT

(Code Civ. Proc., §§ 1822.50-1822.57)

[Filed or lodged concurrently with (Proposed)  
Inspection Warrant.]

THE LAW OFFICES OF  
CHARISSE L. SMITH  
8301 UTICA AVENUE, SUITE 102  
RANCHO CUCAMONGA, CALIFORNIA 91730

1 STATE OF CALIFORNIA )  
2 ) ss.:  
3 COUNTY OF SAN BERNARDINO )  
4

5 I, Donald Flores, being duly sworn, personally appeared before the Court on this day, and  
6 under oath, declared the following:  
7

8 1. I am currently employed as a Senior Community Improvement Officer for the City  
9 of Ontario ("City"), which employment involves enforcement of ordinances relating to property,  
10 abatement of conditions that have been identified as public nuisances, and the routine inspection of  
11 real property within the City. I have reviewed the case file for the property located at 1045 West  
12 Mission Boulevard, in the City of Ontario, California, Assessor's Parcel Number 1011-382-65-  
13 0000 (the "Property"), and thereby have personal knowledge of the following matters, except where  
14 stated upon information and belief. Furthermore, to the extent documents attached hereto were not  
15 prepared by me, I could and would testify to their authenticity and status as official records.

16 2. This affidavit is made in support of a request for a warrant authorizing the City, its  
17 employees or contractors, to inspect the real property and structures located at the Property, with  
18 the assistance of the Ontario Police Department and the Animal Control Office, to enforce the  
19 provisions of the Ontario Municipal Code ("OMC") and to determine whether there are violations  
20 of the OMC, including, without limitation, the Uniform Codes adopted therein. This affidavit is  
21 also to establish reason to believe that persons having a legal interest and/or dominion, custody,  
22 and/or control of the premises located at the Property have been unwilling to consent to such  
inspection.

23 3. The Property consists of a motel/inn named Best Ontario Inn ("Motel"). According  
24 to title records, the Property is currently owned by Kalpesh P. Solanki (the "Owner") pursuant to a  
25 Grant Deed which was recorded on September 22, 2017 as Document No. 2017-0393399. The  
26 Owner's current legal address is 6939 Schaefer Avenue, D 235, Chino CA 91710. (A true and  
27 correct copy of the Grant Deed is attached hereto as Exhibit "A" and incorporated herein by  
28 reference.)

1           4.       On or about October 19, 2021, the City received a complaint about guest staying in  
2 the Motel beyond 30 days in violation of Civil Code Section 1940.1; inoperative vehicle parked on  
3 the Property; graffiti, an accumulation of trash and debris and shopping baskets throughout the  
4 Property. In response, the City sent a Notice of Complaint on or about October 21, 2021 to the  
5 Owner to the address on record. (A true and correct copy of the Notice of Complaint dated October  
6 21, 2021 is attached hereto as Exhibit "B" and incorporated herein by reference.)

7           5.       On or about November 4, 2021, I spoke with Owner Mr. Solanki and explained that  
8 a Notice of Complaint was issued against the Property in response to a complaint, and that the City  
9 is required to confirm if the complaint is valid. Mr. Solanki stated that he wanted to be present for  
10 the inspection and asked for further details about the violations. I informed him about the vehicles  
11 being used for living purposes and about the graffiti, and trash and debris throughout the Property.

12           6.       On or about November 9, 2021, the City received a letter from the Owner's attorney,  
13 Frank Weiser rejecting the City's Notice of Complaint and requesting that the City immediately  
14 withdraw the complaint. Attorney Weiser also threaten to sue the City and code enforcement  
15 officers under 42 U.S.C. section 1983 if the City entered the Property. (A true and correct copy of  
16 the letter dated November 9, 2021 is attached hereto as Exhibit "C" and incorporated herein by  
17 reference.)

18           7.       On or about July 8, 2022, the City received a complaint that there was an  
19 unauthorized Hauler on the Property in violation of OMC Section 6-3.209 (A) & (B).

20           8.       On or about July 12, 2022, I went to the Property, along with Building Official James  
21 Caro, and met with Motel business representative BN Patel. I asked for consent to inspect the  
22 Property, and Mr. Patel showed us the documentation dated November 9, 2021, denying the City  
23 access to conduct an inspection. Mr. Patel stated that no access for the City will be allowed.  
24 Building Official Mr. Caro also spoke with Mr. Patel and was denied access. Mr. Caro reminded  
25 Mr. Patel that there is active onsite construction taking place in two units and that he needed to see  
26 the work being done. Mr. Patel again denied access to inspect. The City issued a Notice of Need to  
27 Inspect requesting inspection of the complete interior and exterior, swimming pool, office, lobby  
28 and utility room(s). The Notice of Need to Inspect included a warning that "[n]ot responding to this

1 Notice or not making your property available for inspection in a timely manner may result in the  
2 Community Improvement Department obtaining a warrant to conduct this inspection, which may  
3 involve legal and administrative fees. Thank you in advance for your cooperation.” Subsequently,  
4 I received a telephone call from Owner Mr. Solanki concerning the Notice of Need to Inspect. Mr.  
5 Solanki explained that his attorney, Mr. Frank Weiser would be making contact. I responded that I  
6 would refer Mr. Weiser to the City Attorney, Mrs. Charisse Smith for a discussion of an interior  
7 and exterior inspection of the Property. (A true and correct copy of the July 12, 2022 Notice of  
8 Need to Inspect is attached hereto as Exhibit “D” and incorporated herein by reference.)

9 9. On or about July 12, 2022, I met with Supervising Building Inspector, Matt  
10 Montieth, and he explained that on June 28, 2022, the Ontario Police Department contacted the  
11 Building Department concerning a complaint received for the ceiling collapsing in two units on the  
12 Property. Mr. Montieth responded and confirmed that unpermitted construction was active and  
13 extensive water damage was involved affecting four units on the Property. (True and correct copies  
14 of photos showing the Stop Work Order and conditions of the units are attached hereto as Exhibit  
15 “E” and incorporated herein by reference.)

16 10. The purpose of the Inspection Warrant is to authorize an inspection of the Property,  
17 including the exterior and interior of all structures on the Property, as well as any rooms, including  
18 all guest rooms, areas under construction, the office, lobby, swimming pool, and utility room(s) on  
19 the Property, in order to enforce the provisions of the OMC, to determine whether the Property  
20 complies with the OMC, and to determine the nature and extent of any potential OMC violations,  
21 including any potential building and fire code violations, for the safety of the Owner, occupants,  
22 first responders and the community at large. Said inspection would include an inspection by your  
23 affiant, officers from the Ontario Police Department, the Building Official or his designee(s), and  
24 the Fire Marshall or his designee(s). The City has been unable to gain consent from the Owner or  
25 tenants/occupants to conduct the inspection. Accordingly, this Inspection Warrant is necessary.

26 11. The City is authorized to make an inspection of real property in order to enforce the  
27 provisions of the 2019 California Building Code, as adopted in OMC Section 8-1.01. Section 104.6  
28 of the 2019 California Building Code states in pertinent part: “... where the building official has



THE LAW OFFICES OF  
CHARISSE L. SMITH  
8301 UTICA AVENUE, SUITE 102  
RANCHO CUCAMONGA, CALIFORNIA 91730

1 reasonable cause to believe that there exists in a structure or upon a premises a condition which is  
2 contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or  
3 hazardous, the building official is authorized to enter the structure or premises at reasonable times  
4 to inspect . . . If entry is refused, the building official shall have recourse to the remedies provided  
5 by law to secure entry.”

6 12. Code of Civil Procedure Sections 1822.50 *et seq.* sets forth a procedure for obtaining  
7 a warrant to secure entry onto property for the purpose of conducting administrative inspections.

8 13. Your affiant requests that reasonable force by means of the use of a locksmith be  
9 authorized to enter the Subject Property. Based on the complaints and general knowledge of similar  
10 nuisance conditions, there is a reasonable suspicion of violations of state and local regulations  
11 relating to building, fire, safety, plumbing, electrical, health, labor, or zoning, which, if such  
12 violation existed, would be an immediate threat to health or safety. Accordingly, the Court should  
13 allow the requested inspection/abatement to be made by means of forcible entry in accord with  
14 Code of Civil Procedure Section 1822.56.

15 14. The inspection is expected to take no more than one (1) day to complete; however,  
16 the actual time may be more or less than one (1) day. The inspection will only be conducted between  
17 the hours of 8:00 a.m. and 6:00 p.m.

18 15. Your affiant also requests that the Inspection Warrant authorized by this Court  
19 permit the presence of one or more peace officers in order to keep the peace during the inspection,  
20 as well as one or more animal control officers to inspect for and enforce any violations of animal  
21 related laws and/or to contain any animals that might be on the Property at the time of the  
22 inspection.

23 16. The purpose of the requested Inspection Warrant is to allow the City, through its  
24 employees or contractors, the ability to inspect the Property; more specifically, to:

25 (a) Use reasonable force and forcibly enter any and all portions of the exterior and  
26 interior of all structures on the Property, as well as any rooms, including all guest rooms, areas  
27 under construction, the office, lobby, swimming pool, and utility room(s) on the Property, with the  
28 Ontario Police Department’s assistance, Fire Department personnel’s assistance, and/or the

THE LAW OFFICES OF  
CHARISSE L. SMITH  
8301 UTICA AVENUE, SUITE 102  
RANCHO CUCAMONGA, CALIFORNIA 91730

1 assistance of Animal Control, to conduct a thorough inspection of said areas in order to enforce the  
2 provisions of the OMC, to determine whether the Property complies with the OMC, and to ascertain  
3 the nature and extent of any potential OMC violations;


4 (b) Cite any violations of the OMC, should they be identified, while the City is on the  
5 Property;

6 (c) Re-secure the Property, if necessary, after completion of the inspection; and

7 (d) Videotape and/or photograph any and all of the aforementioned activities.  
8

9 WHEREFORE, your affiant respectfully requests a warrant be issued pursuant to Sections  
10 1822.50 *et seq.* of the *Code of Civil Procedure* to permit an inspection of the Property to be made  
11 by your affiant, and any other City officers, employees or individuals authorized by the City, to  
12 assist in said inspection of the Property.  
13

14 I declare under penalty of perjury, under the laws of the State of California, that the  
15 foregoing is true and correct to the best of my knowledge.  
16

17   
18 \_\_\_\_\_  
19 Donald Flores  
20 Senior Community Improvement Officer  
21 City of Ontario

22 Subscribed and sworn before me this 13<sup>TH</sup> day of JULY 2022.



29   
30 \_\_\_\_\_  
31 Judge of the Superior Court  
32 CARA D. HUTSON

**24 HOUR NOTICE OF EXECUTION OF INSPECTION WARRANT AT  
1045 WEST MISSION BOULEVARD, ONTARIO, CA**

**TO: KALPESH P. SOLANKI**

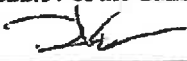
**OR ANY OCCUPANT OF 1045 WEST MISSION BOULEVARD, ONTARIO, CA**

NOTICE IS HEREBY GIVEN to you as the owners or occupants of the premises located at **1045 WEST MISSION BOULEVARD**, in the City of Ontario, California, Assessor's Parcel Number **1011-382-65-0000** (the "Property"), that on the 13th day of July, 2022, Judge Cara D. Hutson of the Superior Court, County of San Bernardino, issued a warrant for the purpose of inspecting the Property, including the exterior and interior of all structures on the Property, as well as any rooms and areas under construction, the office, lobby, swimming pool and utility room(s) on the Property, to determine the presence and extent of the violations of the Ontario Municipal Code and its adopted codes.

Access to the Subject Property is sought for the purpose of such inspection, more specifically to:

- a. Use reasonable force and forcibly enter any and all portions of the exterior and interior of all structures on the Property, as well as any rooms, all guest rooms, areas under construction, the office, lobby, swimming pool and utility room(s) on the Property, with the Ontario Police Department's assistance, Fire Department personnel's assistance, and/or the assistance of Animal Control, to conduct a thorough inspection of said areas in order to enforce the provisions of the OMC, to determine whether the Property complies with the OMC, and to ascertain the nature and extent of any potential OMC violations;
- b. Cite any violations of the OMC, should they be identified, while the City is on the Property;
- c. Re-secure the Property, if necessary, after completion of the inspection; and
- d. Videotape and/or photograph any and all of the aforementioned activities.

Access to the premises for the above-described activities is scheduled for July 15th, 2022 between 8:00 a.m. to 6:00 p.m. The inspection is scheduled to take one (1) day, but the process may be shorter or longer. You have the right to be present during the execution of the warrant but are not required to be present. Refusal to permit the inspection is punishable as a misdemeanor pursuant to Section 1822.57 of the California Code of Civil Procedure.

  
\_\_\_\_\_  
Donald Flores  
Senior Community Improvement Officer  
City of Ontario

Copy to Owner c/o Frank A. Weiser, Attorney at Law (via email: [maimons@aol.com](mailto:maimons@aol.com))

**Digital file too large for posting.**

**Exhibit F will be provided to the Board and available to the public at the hearing and at the City Clerk's Office**

**EXHIBIT F**

# **EXHIBIT G**

# WARNING UNSAFE TO OCCUPY

ADDRESS: 1045 W. MISSION AVE. UNIT 102

This structure or equipment is unsafe or substandard. Repairs are necessary. Contact the City of Chicago Safety Division before proceeding with repair work or occupancy.

It shall be unlawful for any person to enter such structure except for the purpose of strengthening the structure, making the required repairs, removing the hazardous condition, or demolishing the same with official City approval and required building permits.

*[Signature]*  
Building Official of the City of Chicago

DATE: 7/15/22

PERMITS: 1045 W. MISSION AVE. UNIT 102

THIS IS A WARNING OF IMPENDING HAZARD OF  
PROPERTY DAMAGE AND PERSONAL INJURY.

FOR THE CITY OF CHICAGO, THE CITY ENGINEER HAS REVIEWED THE RECORDS AND FOUND THAT THE STRUCTURE IS IN AN UNSAFE CONDITION AND IS NOT SAFE TO OCCUPY. THE CITY ENGINEER HAS ISSUED THIS WARNING TO THE OWNER OF THE STRUCTURE AND TO THE OCCUPANTS OF THE STRUCTURE. THE CITY ENGINEER HAS ADVISED THE OWNER AND OCCUPANTS OF THE STRUCTURE THAT THEY SHOULD IMMEDIATELY CONTACT THE CITY ENGINEER TO DISCUSS THE NECESSARY REPAIRS AND PERMITS REQUIRED TO BRING THE STRUCTURE UP TO CODE. IF THE STRUCTURE IS NOT REPAIRED AND PERMITS ARE NOT OBTAINED, THE CITY ENGINEER WILL TAKE ENFORCEMENT ACTION TO PROTECT THE PUBLIC SAFETY.

City of Chicago  
BUILDING DEPARTMENT

Occupied  Vacant

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Permit Number: \_\_\_\_\_  
Structure Number: \_\_\_\_\_

City of Chicago  
BUILDING DEPARTMENT

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City of Chicago  
BUILDING DEPARTMENT  
100 N. Dearborn Street  
Chicago, IL 60610  
312.744.3100

**City of Ontario**  
**BUILDING DEPARTMENT**

Correction Notice

Stop Work


Permit Number: \_\_\_\_\_

Address: 1045 W MISSION UNIT 102

Type of Inspection: \_\_\_\_\_

**After the following corrections have been completed call the inspection request line to schedule re-inspection at (909) 395-2361 or visit automation.ontarioca.gov/onlinepermits**

HAZARDOUS UNPERMITTED CONSTRUCTION

Inspector:  Date: 7.15.22 Time: 11:31

**Office Hours: Monday – Friday 7:30 - 8:00 A.M. & 4:00- 4:30 P.M.**  
**Inspector's Telephone Number: (909) 395-2362**

# **EXHIBIT H**



LAW OFFICES

**FRANK A. WEISER**

Refer To File No.

Member of the Bar:

United States Supreme Court  
United States Court of Appeals for Third Circuit  
United States Court of Appeals for Fourth Circuit  
United States Court of Appeals for Fifth Circuit  
United States Court of Appeals for Sixth Circuit  
United States Court of Appeals for Eighth Circuit  
United States Court of Appeals for Ninth Circuit  
United States Court of Appeals for Tenth Circuit

3460 Wilshire Boulevard, Suite 1212  
Los Angeles, California 90010  
Telephone: (213) 384-6964  
Fax: (213) 383-7368

July 17, 2022

United States Tax Court.

Master of Law in Taxation

**BY PERSONAL DELIVERY  
AND FEDERAL EXPRESS-  
GUARANTEED OVERNIGHT  
DELIVERY AND E-MAIL**

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Re: Appeal of Inspection and Closure of  
Best Ontario Inn located at 1045 West Mission  
Blvd., Ontario, CA 91608/My Clients: Owner and  
Operator Kalpesh Solanki and On-Site Managers  
Bharat Patel and Jaya Patel

Dear Mr. Caro and Mr. Flores:

I represent Kalpesh Solanki, the owner and operator of the subject property commonly known as the Best Ontario Inn located at 1045 West Mission Blvd., Ontario, CA 91608 ("Motel" or "Property").

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("Motel" or "Property"). I write to you about the inspection and closure of the motel on Friday, July 15, 2022 by the City of Ontario ("City").

My clients request an immediate appeal of the inspection and closure of the motel.

The grounds of the appeal are as follows:

Well settled and long standing United States Supreme Court case law extends the clear protections of the Fourth Amendment of the U.S. Constitution to the secure and private areas of the property. As such any entry cannot lawfully be accessed without my clients' consent. Case law is clear that the City has no authority to access the units without an appropriate administrative warrant under Fourth Amendment.

In a Ninth Circuit published case that I litigated on behalf of another motel owner, the Ninth Circuit held that although the "common law trespassory test" does not apply to the public areas of a private commercial establishment such as a motel, the private secured areas are subject to Fourth Amendment strictures under the reasonable expectation of privacy test. See Patel v City of Montclair, 798 F.3d 895 (9th Cir. 2015); See v Seattle, 387 U.S. 541 (1967) (Fourth Amendment applies to private commercial establishments); Marshall v Barlow's, Inc., 436 U.S. 307 (same).

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The warrant that was presented to my clients at the time of the inspection and closure by you and other City officials and City of Ontario police officers was both facially defective and applied unconstitutionally. While a City administrative body is without power to adjudicate the warrant's constitutionality, I mention this only to alert you and the City that my clients did not consent to the inspection and will challenge the warrant and its application in a United States District Court for the Central District of California for damages and injunctive relief under 42 U.S.C. §1983 for violation of their federal civil rights, including but not limited to the previously referenced constitutional violations, and seek substantial damages, costs and attorney's fees under 42 U.S.C. §1988. My clients reserve all federal constitutional claims for adjudication in federal court under England v Louisiana State Board of Medical Examiners, 375 U.S. 411 (1964).

Nevertheless, at the time of the inspection and closure of the motel, my clients were never informed, orally, or in writing, why the subject property was being inspected and why it required immediate closure. They were never given a hearing before the closure.

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This is in clear violation of the procedural Due Process Clause of the Fourteenth Amendment of the United States Constitution.

The Ninth Circuit holds that "[d]ue process generally includes an opportunity for some type of hearing before the deprivation of a protected property interest." Sorrano's Gasco, Inc. v. Morgan, 874 F.2d, 1310, 1317 (9th Cir. 1989) ("The Supreme Court has stated that either the necessity of quick action by the State or the impracticality of providing any meaningful predeprivation process, when coupled with the availability of [post-deprivation] procedures], can satisfy the requirements of procedural due process." Id. at 1317 (internal citations and quotation marks omitted).

My were entitled to pre-deprivation process before the closure of the motel and the eviction of guests and the on-site managers from their units, or if an emergency did exist, with a prompt post-deprivation hearing. See Patel v Penman, 103 F.3d 868, 878 (9th Cir. 1996) (no evidence of providing motel owner with post deprivation hearing after closure for code violations required reversal of jury verdict in favor of City).

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Just because the City has designated the motel a public nuisance does not necessarily make it so. Leppo v City of Petaluma, 20 Cal.App.3d 711, 718 (1971). The Ninth Circuit further holds that a civil search or seizure of property without any judicial authorization is impermissible under the Fourth Amendment even to abate a public nuisance unless a public emergency exception applies, an exception not at issue in this motion as it is a factual issue not resolvable at this stage of the proceedings. See also Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264 (1981) and North Am. Cold Storage Co. v. Chicago, 211 U.S. 306 (1908), that "[s]ummary governmental action taken in emergencies and designed to protect the public health, safety and general welfare does not violate due process. Government officials need to act promptly and decisively when they perceive an emergency, and therefore, no pre-deprivation process is due. However, the rationale for permitting government officials to act summarily in emergency situations does not apply when the officials knew no emergency exists, or where they act with reckless disregard of the circumstances." Armanderiz v. Penman, 31 F.3d 860, 866 (9th Cir. 1994), vacated in part on other grounds, 75 F.3d 1311 (9th Cir. 1996) (en banc).

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The Ninth Circuit holds that "[t]o the extent that the defendants, in an attempt to dislodge residents suspected of criminal acts, interfered with plaintiffs possessory interest [in their motel] under the emergency provisions of the housing code, the reasonableness of the seizure is in question, since those provisions are not designed as law enforcement methods." Armanderiz v. Penman, 75 F.3d at 1318 (citing Alexander v San Francisco, 29 F.3d 1355, 1361 (9th Cir. 1994)("[A]n administrative search [to determine compliance with health and building codes] may not be converted into an instrument which serves very different needs of law enforcement officials.")).

My clients dispute that that an emergency exception existed at the time of the closure of the motel and the City did not have an civil abatement warrant. Even if the inspection warrant is valid, which my clients dispute, it did not authorize, nor did a judge authorize closure.

The tenants residing at the motel, including the on-site managers, have procedural due process rights. See Lindsey v Normet, 405 U.S. 56, 72 (1972).

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The right to an abatement warrant is a state statutory entitlement as codified in California Code of Civil Procedure § 1822.50, et seq. dealing with administrative warrants to close the motel. State law in California codifies a statutory entitlement that requires a showing of cause to issue an administrative warrant based on such standards. See California Code of Civil Procedure § 1822.54.

Under the "statutory entitlement" doctrine, a property interest is protected under the Due Process Clause when "an individual has a reasonable expectation of entitlement deriving from existing rules or understandings that stem from an independent source such as state law." Wedges/Ledges of Cal. v. City of Phoenix, 24 F.3d 56, 62 (9th Cir. 1994)(internal quotation marks and citation omitted). "A reasonable expectation of entitlement is determined largely by the language of the statute and the extent to which the entitlement is couched in mandatory terms." Id. See also Parks v. Watson, 716 F.2d 646, 657 (9th Cir. 1983) ("We believe that a determination as to whether the public interest will be prejudiced, while obviously giving a certain amount of play in the decisional process, defines an articulable standard. At the least, the agency would have to specify a legitimate public interest that would be prejudiced . . . We believe that the statutory scheme

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placed significant substantive restrictions on the agency's actions so as to confer due process rights.").

Here too the decisional process under state law and California Code of Civil Procedure § 1822.54 defines an articulable standard that placed significant substantive restrictions on the City's actions so as to confer due process rights.

Independent of this, my clients have a protectible property interest in the City's adjudicatory procedures. The Supreme Court has held that a cause of action is a species of property protected by the Fourteenth Amendment's Due Process Clause, and that this includes use of administrative adjudicatory procedures. See Logan v. Zimmerman Brush Company, 455 U.S. 422, 428-429 (1982) ("Despite appellee Zimmerman Brush Company's arguments to the contrary, we see no meaningful distinction between the cause of action at issue in Mullane and Logan's right to use the FEPA's adjudicatory procedures.").



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The motel was closed without an abatement warrant or valid consent and thus, their due process rights under California Code of Civil Procedure § 1822.50 were also implicated,

The procedural due process standard is also analyzed under the test set forth in Matthews v. Eldridge, 424 U.S. 319 (1976):

"First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." Id., a 335.

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The Supreme Court has observed that, in applying this test, it "usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." Zinermon v. Burch, 494 U.S. 113, 127 (1990); see also Memphis Light, Gas, and Water Div. v. Craft, 436 U.S. 1, 19 (1978) ("Ordinarily, due process of law requires an opportunity for 'some kind of hearing' prior to the deprivation of a significant property interest."); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950) (due process includes not only right to notice but meaningful opportunity to respond).

Under the Matthews test, my clients have a significant state entitlement in their motel unit; this required specialized hearings on whether there was a factual basis for the closure. A mere determination without a hearing significantly risks an erroneous deprivation since there has been no individualized showing why they are not in compliance with City or state law.

The City and your actions were in violation of the Equal Protection Clause. Aramanderiz at 75 F.3d at 1326.

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The City and your actions were clearly overenforcement and my clients are not being treated the same with a similarly situated motels. Where an equal protection claim is based on "selective enforcement of valid laws," a plaintiff can show that the defendants' rational basis for selectively enforcing the law is a pretext for "an impermissible motive." Freeman v. City of Santa Ana, 68 F.3d 1180, 1187-8 (9th cir. 1995) (internal quotation marks and citation omitted); Armanderiz, 75 F.3d at 1327. See Squaw Valley Development Company v. Goldberg, 375 F.3d 936, 946 (9th Cir. 2004) (citing Patel, 103 F.3d 868, 876 (9th Cir. 1996) (recognizing that pretext might be shown if the city was "using its code enforcement process not to enforce compliance with the codes but rather to drive . . . downtown motels out of business"); Armanderiz, 75 F.3d at 1327 (finding a "triable issue of fact as to whether the [city's] asserted rationale of directing efforts to enforce the housing code in hightime crime areas was merely a "pretext" to reduce property values to purchase them at a reduced rate); Lockary, 917 F.2d at 1155 ("Although a water moratorium may be rationally related to a legitimate state interest in controlling a water shortage" the plaintiffs raised a triable issue of fact regarding the "very existence of a water shortage.")).

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The inspection and closure violated substantive due process. See Kawaoka v. City of Arroyo Grande, 17 F.3d 1227, 1238 (9th Cir. 1994). The inspection and closure were clearly arbitrary and unreasonable and "could have had no legitimate reason for its decision." Kawaoka, 17 F.3d at 1234 (internal quotations omitted)..See also Crown Point Dev. Inc. v City of Sun Valley, 506 F.3d 851, 855 (9th Cir. 2007) (Ninth Circuit overturned its bar in Armanderiz on substantive due process claims for land use regulations, holding instead that the Fifth Amendment does not preclude due process claims in cases of impermissible or arbitrary land use regulations).

Further, the Supreme Court now holds that land-use conditions that are imposed by government that are coercive may be considered arbitrary and unconstitutional and require heightened scrutiny and a factual analysis. Koontz v St. Johns River Water Management District, 133 S.Ct. 2586 (2012).

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The closure of the motel is a per se taking under the Fifth Amendment Takings Clause

My clients are entitled to a fair hearing in compliance with the Due Process Clause.

Well established law in the United States Court of Appeals for the Ninth Circuit is that the right to a "fair trial in a fair tribunal", In re Murchison, 349 U.S. 133, 136 (1955), applies not only to courts, but also to state administrative agencies charged with applying eligibility criteria for licenses. Stivers v. Pierce, 71 F.3d 732, 741 (9th Cir. 1995).

It is also well established in the Ninth Circuit that a biased administrative proceeding is not a procedurally adequate one and is to be denied preclusive effect. Clements v. Airport Authority of Washoe County, 69 F.3d 321, 333 (9th Cir. 1995). A biased cannot be cured by subsequent judicial review in state court, even if the subsequent state court procedures includes de novo review. Clements, 69 F.3d at 333-34.

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My clients are entitled to have an independent hearing officer acceptable to both sides be appointed the hearing officer on the appeal by the City Manager. See Haas v County of San Bernardino, 27 Cal.4th 1019 (Cal. 2002)

Further, under California law “[o]nce a licensee has acquired a [conditional use] permit,” or has deemed approved or grandfathered status, “a municipality’s power to revoke [or modify] the [conditional] use is limited,” and “due process requires that it act only upon notice to the permittee, upon a hearing, and upon evidence supporting a finding of revocation [or modification.” Bauer v City of San Diego, 75 Cal.App.4th 1285, 1294-95 (1999).

Revocation, denial, or modification of a permit at such a hearing cannot “interfere[sic] with the constitutional right to carry on a lawful business [and] it must be clear the public interests require such interference and that the means employed are reasonably necessary to accomplish the purpose and are not unduly oppressive to individuals.” Bauer, 75 Cal.App.4th at 1294 (internal quotation marks and citations omitted) (emphasis added). “It is consequently a very harsh remedy which requires the strictest adherence to principles of due process. Whenever alternate remedies can achieve the same goal, such as the imposition of additional conditions or controls, these avenues ought to be pursued if possible.” Bauer, 75 Cal.App.4th

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Even assuming, *in arguendo*, there is a public nuisance operating at the motel, a fact wholly denied by my clients, complete denial of a permit rather than imposition of operating conditions is not reasonably necessary to accomplish the claimed purpose of abating the claimed nuisance and clearly unduly oppressive to my clients. The intent is clear. The City wishes to circumvent my clients' due process rights and submit their permit to administrative extinction which is clearly prohibited under federal and state law. Bauer, 75 Cal.App.4th at 1295.

What the City really intends to do is to permanently close the motel. The City's and your actions did not comply with even the most basic rudiments of due process.

Further, any search or seizure of the motel's records without consent or a warrant is wholly unconstitutional. This is now established in a case that I litigated as counsel of record on behalf of a group of motel owners in the City of L.A. in the United States Supreme Court case of City of Los Angeles v Patel, 576 U.S. 409 (2015) in which the Supreme Court in a 5-4 decision affirmed a United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") decision facially invalidating on Fourth Amendment grounds a motel registration records search ordinance. See Patel v City of Angeles, 758 F.3d 1058 (9th Cir. 2013)(en banc).

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In the Patel case, the Supreme Court held that even when there is a statute or ordinance that compels motel owners (and the principle applies to all business owners) to produce business documents on demand without a court order or consent upon the imposition of civil or criminal penalties for failure to do so, such a law is facially and completely unconstitutional under the Fourth Amendment as the Constitution requires that the owner first be given judicial process in order to contest the matter.

I successfully litigated as counsel of record the Patel case. Some of my other published cases are Patel v Penman, 103 F.3d 858 (9th Cir.1996); Patel v. City of San Bernardino, 310 F.3d 1134 (9th Cir. 2002); Patel v City of Montclair, 798 F.3d 895 (9th Cir. 2015); Herrera v City of Palmdale, 918 F.3d 1037 (9th Cir. 2019); City of San Bernardino Hotel/Motel Association v City of San Bernardino, 59 Cal.App.4th 237.

Recently, I litigated a case before the Ninth Circuit regarding the Fourth Amendment rights of a massage establishment that the Ninth Circuit held was a "closely regulated" industry and did not enjoy the same Fourth Amendment rights as the hotel and motel industry. The case is entitled Killgore v City of South El Monte, 3 F4th 1186(9th Cir. 2021). While several national law firms



James Caro, CBO  
Building Official  
Building Department  
City of Ontario  
City Hall  
303 East B Street  
Ontario, CA 91764  
E-Mail: jcaro@ontarioca.gov

Donald E. Flores  
Senior Community Improvement Officer  
City of Ontario  
208 West Emporia Street  
Ontario, CA 91762  
E-Mail: dflores@ontarioca.gov

Re: Appeal of Inspection and Closure of  
Best Ontario Inn located at 1045 West Mission  
Blvd., Ontario, CA 91608/My Clients: Owner and  
Operator Kalpesh Solanki and On-Site Managers  
Bharat Patel and Jaya Patel

July 17, 2022

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have expressed their interest in joining with me to petition the United States Supreme Court as they believe my Patel Supreme Court case was misapplied, the Ninth Circuit itself did emphasize that "[y]et Patel dealt with a very different business - the hotel industry - one that the Supreme Court has repeatedly recognized enjoys core Fourth Amendment protections." *Id.*, at 1191-92 (emphasis added) (internal citations omitted).

This only reinforces that the egregious nature of the Fourth Amendment violations taints and invalidates any claimed evidence that might be relied upon by the City.

"[T]he primary object of an abatement action - [is] to 'reform' the property and insure that the nuisance is abated, not to punish for past acts." People ex rel. Van de Kamp v American Art Enterprises, Inc., 33 Cal.3d 329, 333 (1983) (emphasis added).

Unnecessary interference with the business would constitute irreparable injury. The Ninth Circuit and the Supreme Court holds that the right to engage in a particular occupation is constitutionally protected under the Due Process Clause. See Chalmers v. City of Los Angeles, 762 F.2d 753, 756-759 (9th Cir. 1985)(collecting Supreme Court cases); see Greene v McElroy, 360 U.S. 474, 492 (1959) ('[t]he right to hold specific private employment and to follow a chosen

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profession . . . comes within the 'liberty' and 'property' concepts of the Fifth Amendment"), Schwartz v Board of Bar Examiners, 353 U.S. 232, 238-39 (1957) ("a State cannot exclude a person from the practice of law or from any other occupation in a manner or for reasons that contravene the Due Process or Equal Protection clause of the Fourteenth Amendment). Irreparable injury is presumed where a person's fundamental constitutional rights are threatened. See Elrod v Burns, 427 U.S. 347, 373 (1976) .

State law tracks this concern. California appellate courts have concluded that the continued operation of a business is a "fundamental vested right" that is entitled to heightened legal scrutiny in a city's attempted closure of the business. See Goat Hill Tavern v City of Costa Mesa (1992) 6 Cal.App.4th 1519, 1526-29.

My clients deny that there is any credible evidence that they are operating the motel in violation of local or state law, let alone as a public nuisance, and that required immediate closure.

James Caro, CBO  
Building Official  
Building Department  
City of Ontario  
City Hall  
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July 17, 2022

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(By Personal Delivery and Federal Express -  
Guaranteed Overnight Delivery and E-Mail)

Please make this letter and the enclosed documents a part of the administrative record and for distribution to the City Council and any other City officials. If you need to speak to me directly, I can be reached by e-mail at [maimons@aol.com](mailto:maimons@aol.com) or at (213) 399-7806

Sincerely,

  
Frank A. Weiser  
Attorney at Law

cc: Kalpesh Solanki  
Bhatat and Jaya Patel  
Sheila Mautz, City Clerk (By Personal Delivery  
and Federal Federal Express -Guaranteed Overnight Delivery)  
Charisse L. Smith, Esq. (By E-Mail at [csmith@clsmithlaw.com](mailto:csmith@clsmithlaw.com))  
Ruben Duran, Esq. (By E-Mail at [ruben.duran@bbklaw.com](mailto:ruben.duran@bbklaw.com))  
Richard T. Egger, Esq. (By E-Mail at [richard.egger@bbklaw.com](mailto:richard.egger@bbklaw.com))  
Venus G. Trunnel, Esq. (By E-Mail at [venus.trunnel@bbklaw.com](mailto:venus.trunnel@bbklaw.com))

FAW:aw

# **EXHIBIT I**

CITY OF



ONTARIO

303 EAST B STREET | ONTARIO, CALIFORNIA 91764

(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON  
MAYOR

ALAN D. WAPNER  
MAYOR PRO TEM

JIM W. BOWMAN  
DEBRA DORST-PORADA  
RUBEN VALENCIA  
COUNCIL MEMBERS

**NOTICE AND ORDER TO VACATE, SECURE,  
AND REPAIR/DEMOLISH**

July 20, 2022

**VIA FIRST CLASS AND CERTIFIED MAIL**

Kalpesh P Solanki  
6939 Schaerfer Ave D235  
Chino, CA 91710

SHEILA MAUTZ  
CITY CLERK

JAMES R. MILHISER  
TREASURER

SCOTT OCHOA  
CITY MANAGER

**LEGAL NOTICE AND ORDER** of the Building Official of the City of Ontario regarding

Address: 1045 West Mission Boulevard, Ontario, CA 91762

APN: 1011-382-65

**LEGAL DESCRIPTION: PARCEL MAP 4297 PARCEL NO 2 AND MONTE VISTA TRACT NO 2 E 75 FT N 302 FT LOT 3 BLK 16 EX N 18 FT FOR HWY AND EX ST \*\*\*\*\* COMBO REQUEST \*\*\*\*\***, in the City of Ontario, County of San Bernardino, State of California, in the Office of the County Recorder of said County.

**To Whom It May Concern:**

The Building Official or designee has made an inspection of this property as authorized by the City of Ontario Municipal Code Section 8-1.01. This inspection was made on July 15, 2022. Using the following definitions of dangerous building conditions taken from Chapter 3 of the 1997 Uniform Code for the Abatement of Dangerous Buildings, inspectors found and determined that the building(s) on your property constitute(s) a dangerous building.

**On the basis of these inspections, and under the provisions of Section 202 of the Uniform Code for the Abatement of Dangerous Buildings, I hereby find, determine and declare the building on this property to be dangerous and a per se public nuisance, and that these dangerous conditions constitute an immediate danger to the life, limb, property or safety of the public or occupants of the building(s), sufficient that THE STRUCTURE MUST BE VACATED WITHIN 72 HOURS DUE TO HAZARDOUS CONSTRUCTION AND/OR HAZARDOUS CONDITIONS.**

The following is a brief and concise description of the conditions found to render the building dangerous:

**Section 302, definition 2.** Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic. *Second floor balcony / passageway is in a dilapidated and/or damaged state.*

**Section 302, definition 4.** Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code

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for new buildings of similar structure, purpose or location. *Water damage identified within various units on wood studs and roof framing members.*

**Section 302, definition 9.** Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used. *Various units currently under construction without any permits, approvals or inspections conducted by the City of Ontario.*

**Section 302, definition 12.** Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts. *Various interior room(s) walls, ceiling and/or framing members damaged by water intrusion.*

**Section 302, definition 13.** Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirements or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. *Window change-outs have been done without permits or approvals from the City of Ontario. Smoke detectors discovered removed and/or non operative.*

**Section 302, definition 15.** Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease. *Substandard maintenance and/or repairs of windows, plumbing and electrical systems have created unsanitary conditions.*

**Section 302, definition 17.** Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity of jurisprudence. *Trash, debris, graffiti and or unsightly conditions throughout the property. See attached inspection report.*

These dangerous conditions must be abated by repair or demolition. All work, including demolition of any improvements on the property, must be performed in accordance with the current Uniform Building Code and all other applicable state and municipal code requirements, including, when appropriate, obtaining City of Ontario Building Department permits (demolition of most improvements on a property requires obtaining a demolition permit from the City of Ontario Building Department). Before such work begins, you must contact Donnie Flores of the Community Improvement Department to determine what permits will be necessary for the required repairs. Failure to obtain necessary permits will result in the City continuing to view these buildings as substandard even if repairs have been made. After repairs have been made, this property must be maintained in such a way so that the property will not constitute a public nuisance.

Repairs or demolition must commence within 30 days of the date of this Notice and Order. Permits must be obtained within 20 days of this Notice and Order.

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**Note: any application for a demolition permit will be subject to the following requirements and restrictions:**

- All applications for a demolition permit must be accompanied by plans, specifications and other data that the building official may designate in order to determine compliance with any applicable laws under the City's jurisdiction.
- No demolition permit for a Historical Resource will be issued after the nomination of a Historical Resource and while any public hearing or appeal proceedings are underway.
- No demolition permit will be issued for a Historical Resource unless and until Planning Department approval is obtained pursuant to the Historic Preservation Ordinance of the City of Ontario.
- No demolition permit will be issued by the City unless the City receives from the applicant either: (1) a copy of each written asbestos notification regarding the building if such has been required to be submitted to the United States Environmental Protection Agency or to a designated state agency, or both, pursuant to Part 61 of Title 40 of the Code of Federal Regulations, or (2) a written declaration from the applicant stating that the notification is not applicable to the scheduled demolition.

**ALL WORK – REHABILITATION OR DEMOLITION – MUST BE COMPLETED WITHIN 60 DAYS OF THIS NOTICE AND ORDER. FAILURE TO COMMENCE WORK OR OBEY THIS NOTICE AND ORDER MAY RESULT IN ONE OR MORE OF THE FOLLOWING:**

- Criminal (misdemeanor) or civil prosecution, including the City petitioning the Court for the appointment of a receiver pursuant to Health and Safety Code Section 17980.7(c) in not less than three days from the date of this Notice. The City intends to seek recovery of its attorney's fees and costs.
- Our causing the work to be done and charging cost of the repairs against the property
- Our causing the property to be vacated and posted to prevent further occupancy until the work is completed
- Our causing the property to be repaired or demolished and charging that cost against the property
- Our issuance of administrative fines and/or civil penalties, which may be substantial.

Any person having any record title of legal interest in the above referenced property may appeal this Notice and Order or any action of the Building Official. Such an appeal must be made in writing and filed with the Building Official within 30 days of the date of service, which is the day that this Notice and Order was mailed via certified mail. All appeals must also conform to the requirements of Chapter 5 Section 501.1 of the Uniform Code for the Abatement of Dangerous Buildings, a copy of which has been enclosed with this Notice and Order. Failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of this matter. If you choose to appeal this Notice and Order, you should read the attachment that explains the true purpose of an appeal. Pursuant to Section 401.3 of the Uniform Code for the Abatement of Dangerous Buildings, this Notice and Order has been posted at or upon each exit of the building.

Lessors can not retaliate against a lessee pursuant to Civil Code Section 1942.5.

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Finally, Sections 17274 and 24436.5 of the California Revenue and Taxation Code provides, in part, that a taxpayer who derives rental income from housing determined by the local regulatory agency to be substandard by reason of violation of state or local codes dealing with health, safety, or building, cannot deduct from state personal income tax and bank and corporate income tax, interest, taxes, depreciation, or amortization paid or incurred in the taxable year attributable to each substandard structure where the substandard conditions are not corrected within six (6) months after notice of violation by the regulatory agency. The date of service of this Order marks the beginning of that six-month period. The City is required by law to notify the Franchise Tax Board of failure to comply with the code sections listed herein.

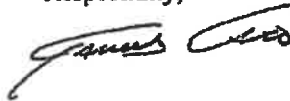
If you have any questions regarding this Notice and Order, please contact Donnie Flores at (909) 395-2520, Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays, or in writing at City of Ontario, 208 W. Emporia St., Ontario, CA 91762.

Respectfully,



Donnie Flores  
Senior Community Improvement Officer

Respectfully,



James Caro  
Building Official

DF:JC:mf

Enclosures: Photocopy of UCADB Chapter 5  
Explanation of the Appeal Process

Certified Mail/Return Receipt Requested 7021 2720 0003 2358 2002



# INSPECTION REPORT

Case Number: CE21001487  
APN: 1011-382-65

Address: 1045 WEST MISSION BOULEVARD

Unit Number:	Inspection:	Result	Date
	Initial Inspection	Violations Found	July 15, 2022

## Violations:

- 1. General Comments:** Building and/or all units, including the on site resident living quarters are required to be vacated in 72 hours.  
  
Violations consist of but are not limited to unpermitted hazardous construction and/or conditions on both the exterior and interior of the structure.
- 2. Exterior: 104:** There is graffiti on the building exterior. Remove graffiti. OMC 6-14.05
- 3. Exterior: 106:** The exterior stucco is deteriorated and/or has large holes. Properly repair the stucco. H&S Code Section 17920.3(g)
- 4. Exterior: 107:** There are missing window screens on the building. Install fly-tight window screens on all windows including slider doors. H&S Code Section 17920.3(a)(14)
- 5. Exterior: 108:** The structure has missing or broken/loose windows and must be repaired or replaced. OMC 5-22.02 (t) & H&S Code Section 17920.3(g)(2)
- 6. Exterior: 123:** The building has been altered without proper approval or permits. OMC 8-1.01 & CBC 1.8.4.1
- 7. Exterior: 126:** There are household items being stored illegally outside and must be removed from public view. OMC 5-22.02 (m)
- 8. Exterior: 130:** The swimming pool or pools are unprotected and/or hazardous. Pool must be secured and maintained. OMC 8-5.01 & CRC AG105.2 & H&S Code Section 17920.3(j)
- 9. Exterior: 131:** There are boxes, lumber, trash, and/or other miscellaneous debris accumulated on the property which must be removed. OMC 5-22.02 (m)
- 10. Exterior: 134:** The water heater lacks earthquake straps, the vent is not properly attached and/or the water heater was installed without permits. H&S Code Section 17920.3(e)
- 11. Exterior: 146:** The electrical system has been altered without proper permits and/or inspections. H&S Code Section 17920.3(d)
- 12. Exterior: 154:** Plumbing and/or gas has been altered on the exterior of the structure. Obtain required permits or remove under permit. OMC 8-1.01 & CBC 1.8.4.1

## **EXHIBIT J**

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FRANK A. WEISER (#89780)  
Attorney at Law  
3460 Wilshire Blvd., Ste. 1212  
Los Angeles, California 90010  
(213) 384-6964 - (voice)  
(213) 383-7368 - (fax)  
maimons@aol.com - (e-mail)

*Harin Maimon*  
*Deputy City Clerk*

Attorney for Appellants  
KALPESH SOLANKI,  
BHARAT PATEL,  
JAYA PATEL

**BEFORE THE BOARD OF APPEALS  
OF THE CITY OF ONTARIO**

APPEAL OF NOTICE AND ORDER )  
TO VACATE, SECURE, SECURE, )  
AND REPAIR/DEMOLISH PROPERTY )  
LOCATED AT 1045 WEST MISSION )  
BOULEVARD, ONTARIO, CA 91762; )  
APN NO. 1011-382-65; DATE OF )  
CITY NOTICE: 7/20/22 )  
 )  
APPELLANTS: KALPESH SOLANKI, )  
BHARAT PATEL, JAYA PATEL )  
 )  
 )

**I.**

**STATEMENT OF LEGAL INTERESTS OF APPELLANTS**

Appellant KALPESH SOLANKI ("KS") is the owner and operator of the subject property located at 1045 West Mission Boulevard, Ontario, CA 91762. The subject property is a motel commonly known as the Best Ontario Inn ("Motel" or "Property").

Appellants BHARAT PATEL and JAYA PATEL (collectively "PATEL"), are employees of KS and the on site resident managers of the Motel.

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II.

**ORDER THAT IS APPEALED**

Appellants KS and PATEL appeal the NOTICE AND ORDER TO VACATE, SECURE, SECURE, AND REPAIR/DEMOLISH PROPERTY Dated July 20, 2022 for the subject property ("Notice"). A copy of the Notice is attached hereto as Exhibit "A".

The facts that support the appeal is that none of the alleged violations stated in the Notice exist, or if are found to exist, to have constituted a per se public nuisance, or public nuisance, such that they are dangerous to the life, limb, property or safety of the public or occupants such that the structure required that it be vacated within the 72 hours due to hazardous construction and/or hazardous conditions stated in the notice.

Further, the structure was vacated summarily by the building officials prior to the issuance of the Notice without a civil abatement warrant.

At the time of the summary closure of the property, the property was in excellent conditions and presented no danger to the public or occupants.

III.

**RELIEF REQUESTED**

The Appellants KS and PATEL request that the Notice be vacated, or reversed and that the motel be permitted to immediately reopen for business. If the Board of Appeals determines that it has jurisdiction to determine that it may award compensation for economic and non-economic damages to the Appellants KS and PATEL, then said Appellants request an award of at least \$1,000,000.00 each for such damages. If the Board determines that it does not have jurisdiction to award damages, then the Appellants KS and PATEL reserve the right

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2  
3 to seek an award of damages against the City of Ontario and its officials in a court of  
4 competent jurisdiction.

5 As stated in a separate appeal letter that was dated July 17, 2022, and filed by the  
6 Appellants KS and PATEL's counsel, FRANK A. WEISER, with the City of Ontario City  
7 Clerk's Office, the summary and unlawful closure of the Motel violated various constitutional  
8 amendment of the United States Constitution, including but not limited to the First  
9 Amendment Petition and Grievance Clause, the Fourth Amendment Search and Seizure  
10 Clause, the Fifth Amendment Takings Clause, the Fourteenth Amendment Due Process and  
11 Equal Clauses. The legal discussion of the constitutional and legal violations are set forth in  
12 Mr. Weiser's appeal letter dated July 17, 2022 and incorporated herein.

13 The Appellants KS and PATEL reserve the right to amend and add any additional  
14 legal basis for this appeal under federal and state law and specifically reserve the right to  
15 appeal any decision of the Board of Appeals to a court of competent jurisdiction.  
16  
17

18  
19 DATED: August 17, 2022

LAW OFFICES OF FRANK A. WEISER

20  
21 By: Frank A. Weiser  
22 FRANK A. WEISER, ATTORNEY FOR  
23 APPELLANTS KALPESH SOLANKI,  
24 BHARAT PATEL, JAYA PATEL  
25 3460 Wilshire Blvd., Suite 1212  
26 Los Angeles, CA 90010  
27 (213) 384-6964 - (voice)  
28 (213) 383-7368 - (fax)  
maimons@aol.com - (e-mail)

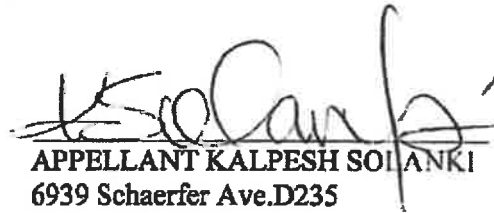
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IV.

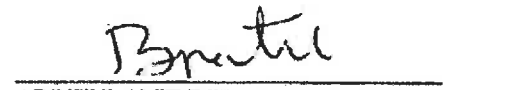
**SIGNATURE OF PARTIES**

I, KALPESH SOLANKI, BHARAT PATEL and JAYA PATEL, have read the foregoing APPEAL OF NOTICE AND ORDER TO VACATE, SECURE, SECURE, AND REPAIR/DEMOLISH PROPERTY LOCATED AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762; APN NO. 1011-382-65; DATE OF CITY NOTICE: 7/20/22, and agree to its contents as set forth by our signatures below.


DATED: August 17, 2022

  
APPELLANT KALPESH SOLANKI  
6939 Schaerfer Ave.D235  
Chino, CA 91710

DATED: August 17, 2022

  
APPELLANT BHARAT PATEL  
1045 West Mission Boulevard, Managers  
Unit  
Ontario, CA 91762.

DATED: August 17, 2022

  
APPELLANT JAYA PATEL  
1045 West Mission Boulevard, Managers  
Unit  
Ontario, CA 91762.

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**EXHIBIT "A"**

# CITY OF ONTARIO

303 EAST B STREET | ONTARIO, CALIFORNIA 91764



(909) 395-2000 FAX (909) 395-2070 OntarioCA.gov

PAUL S. LEON  
MAYOR

ALAN D. WAPNER  
MAYOR PRO TEM

JIM W. BOWMAN  
DEBRA DORST-GRABA  
RUBEN VALENCIA  
COUNCIL MEMBERS

## NOTICE AND ORDER TO VACATE, SECURE, AND REPAIR/DEMOLISH

July 20, 2022

SHEILA MAUTZ  
CITY CLERK

JAMES B. MILNISER  
TREASURER

SCOTT OCHOA  
CITY MANAGER

VIA FIRST CLASS AND CERTIFIED MAIL

Kalpesh P. Solanki  
6939 Schaefer Ave D235  
Chino, CA 91710

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Address: 1045 West Mission Boulevard, Ontario, CA 91762  
APN: 1011-382-65  
**LEGAL DESCRIPTION: PARCEL: MAP 4297 PARCEL NO 2 AND MONTE VISTA TRACT NO 2 E  
75 FT N 302 FT LOT 3 BLK 16 EX N 18 FT FOR HWY AND EX ST \*\*\*\*\* COMBO REQUEST  
\*\*\*\*\*** in the City of Ontario, County of San Bernardino, State of California, in the Office of the County  
Recorder of said County.

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COMMUNITY IMPROVEMENT DEPARTMENT | Angela Magaña, Director  
208 West Emporia Street - Ontario, CA 91762 | (909) 395-2007 | OntarioCA.gov/CommunityImprovement



for new buildings of similar structure, purpose or location. *Water damage identified within various units on wood studs and roof framing members.*

**Section 302, definition 9.** Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used. *Various units currently under construction without any permits, approvals or inspections conducted by the City of Ontario.*

**Section 302, definition 12.** Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become: (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts. *Various interior rooms' walls, ceiling and/or framing members damaged by water intrusion.*

**Section 302, definition 13.** Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirements or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings. *Window change-outs have been done without permits or approvals from the City of Ontario. Smoke detectors discovered removed and/or non operative.*

**Section 302, definition 15.** Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease. *Substandard maintenance and/or repairs of windows, plumbing and electrical systems have created unsanitary conditions.*

**Section 302, definition 17.** Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity of jurisprudence. *Trash, debris, graffiti and/or unsightly conditions throughout the property. See attached inspection report.*

These dangerous conditions must be abated by repair or demolition. All work, including demolition of any improvements on the property, must be performed in accordance with the current Uniform Building Code and all other applicable state and municipal code requirements, including, when appropriate, obtaining City of Ontario Building Department permits (demolition of most improvements on a property requires obtaining a demolition permit from the City of Ontario Building Department). Before such work begins, you must contact Donnie Flores of the Community Improvement Department to determine what permits will be necessary for the required repairs. Failure to obtain necessary permits will result in the City continuing to view these buildings as substandard even if repairs have been made. After repairs have been made, this property must be maintained in such a way so that the property will not constitute a public nuisance.

Repairs or demolition must commence within 30 days of the date of this Notice and Order. Permits must be obtained within 20 days of this Notice and Order.

**Note: any application for a demolition permit will be subject to the following requirements and restrictions:**

- All applications for a demolition permit must be accompanied by plans, specifications and other data that the building official may designate in order to determine compliance with any applicable laws under the City's jurisdiction.
- No demolition permit for a Historical Resource will be issued after the nomination of a Historical Resource and while any public hearing or appeal proceedings are underway.
- No demolition permit will be issued for a Historical Resource unless and until Planning Department approval is obtained pursuant to the Historic Preservation Ordinance of the City of Ontario.
- No demolition permit will be issued by the City unless the City receives from the applicant either: (1) a copy of each written asbestos notification regarding the building if such has been required to be submitted to the United States Environmental Protection Agency or to a designated state agency, or both, pursuant to Part 61 of Title 40 of the Code of Federal Regulations, or (2) a written declaration from the applicant stating that the notification is not applicable to the scheduled demolition.

**ALL WORK -- REHABILITATION OR DEMOLITION -- MUST BE COMPLETED WITHIN 60 DAYS OF THIS NOTICE AND ORDER. FAILURE TO COMMENCE WORK OR OBEY THIS NOTICE AND ORDER MAY RESULT IN ONE OR MORE OF THE FOLLOWING:**

- Criminal (misdemeanor) or civil prosecution, including the City petitioning the Court for the appointment of a receiver pursuant to Health and Safety Code Section 17980.7(e) in not less than three days from the date of this Notice. The City intends to seek recovery of its attorney's fees and costs.
- Our causing the work to be done and charging cost of the repairs against the property.
- Our causing the property to be vacated and posted to prevent further occupancy until the work is completed.
- Our causing the property to be repaired or demolished and charging that cost against the property.
- Our issuance of administrative fines and/or civil penalties, which may be substantial.


Any person having any record title of legal interest in the above referenced property may appeal this Notice and Order or any action of the Building Official. Such an appeal must be made in writing and filed with the Building Official within 30 days of the date of service, which is the day that this Notice and Order was mailed via certified mail. All appeals must also conform to the requirements of Chapter 5 Section 501.1 of the Uniform Code for the Abatement of Dangerous Buildings, a copy of which has been enclosed with this Notice and Order. Failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of this matter. If you choose to appeal this Notice and Order, you should read the attachment that explains the true purpose of an appeal. Pursuant to Section 401.3 of the Uniform Code for the Abatement of Dangerous Buildings, this Notice and Order has been posted at or upon each exit of the building.

Lessors can not retaliate against a lessee pursuant to Civil Code Section 1942.5.

Finally, Sections 17274 and 24436.5 of the California Revenue and Taxation Code provides, in part, that a taxpayer who derives rental income from housing determined by the local regulatory agency to be substandard by reason of violation of state or local codes dealing with health, safety, or building, cannot deduct from state personal income tax and bank and corporate income tax, interest, taxes, depreciation, or amortization paid or incurred in the taxable year attributable to each substandard structure where the substandard conditions are not corrected within six (6) months after notice of violation by the regulatory agency. The date of service of this Order marks the beginning of that six-month period. The City is required by law to notify the Franchise Tax Board of failure to comply with the code sections listed herein.

If you have any questions regarding this Notice and Order, please contact Donnie Flores at (909) 395-2520, Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays, or in writing at City of Ontario, 208 W. Emporia St., Ontario, CA 91762.

Respectfully,



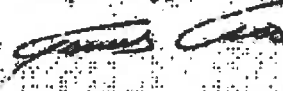
Donnie Flores  
Senior Community Improvement Officer

DF:JC:mf

Enclosures: Photocopy of LCADB Chapter 5  
Explanation of the Appeal Process

Certified Mail Return Receipt Requested 7021 2720 0003 2358 2002

Respectfully,



James Caro  
Building Official

# INSPECTION REPORT

Case Number: CE21001487  
APN: 1011-382-65

Address: 1045 WEST MISSION BOULEVARD

Unit Number:	Inspection:	Result	Date
	Initial Inspection	Violations Found	July 15, 2022

## Violations:

- 1. General Comments:** Building and/or all units, including the on site resident living quarters are required to be vacated in 72 hours.  
  
Violations consist of but are not limited to unpermitted hazardous construction and/or conditions on both the exterior and interior of the structure.
- 2. Exterior: 104:** There is graffiti on the building exterior. Remove graffiti. OMC 5-14.05
- 3. Exterior: 106:** The exterior stucco is deteriorated and/or has large holes. Properly repair the stucco. H&S Code Section 17920.3(g)
- 4. Exterior: 107:** There are missing window screens on the building. Install fly-tight window screens on all windows including slider doors. H&S Code Section 17920.3(a)(14)
- 5. Exterior: 108:** The structure has missing or broken/loose windows and must be repaired or replaced. OMC 5-22.02 (t) & H&S Code Section 17920.3(g)(2)
- 6. Exterior: 123:** The building has been altered without proper approval or permits. OMC 8-1.01 & CBC 1-8.4.1
- 7. Exterior: 126:** There are household items being stored illegally outside and must be removed from public view. OMC 5-22.02 (m)
- 8. Exterior: 130:** The swimming pool or pools are unprotected and/or hazardous. Pool must be secured and maintained. OMC 8-5.01 & CRC AG105.2 & H&S Code Section 17920.3(d)
- 9. Exterior: 131:** There are boxes, lumber, trash, and/or other miscellaneous debris accumulated on the property which must be removed. OMC 5-22.02 (m)
- 10. Exterior: 134:** The water heater lacks earthquake straps, the vent is not properly attached and/or the water heater was installed without permits. H&S Code Section 17920.3(e)
- 11. Exterior: 146:** The electrical system has been altered without proper permits and/or inspections. H&S Code Section 17920.3(d)
- 12. Exterior: 154:** Plumbing and/or gas has been altered on the exterior of the structure. Obtain required permits or remove under permit. OMC 8-1.01 & CBC 1-8.4.1

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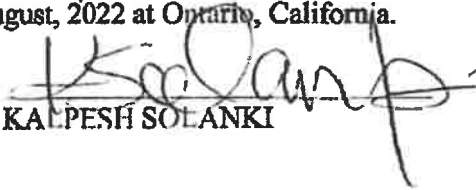
V.

VERIFICATION

I am an Appellant in the above-entitled appeal. I have read the foregoing thereof APPEAL OF NOTICE AND ORDER TO VACATE, SECURE, SECURE, AND REPAIR/DEMOLISH PROPERTY LOCATED AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762; APN NO. 1011-382-65; DATE OF CITY NOTICE: 7/20/22. The same is true of my knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED this 17th day of August, 2022 at Ontario, California.

  
KALPESH SOLANKI



# **EXHIBIT K**

CITY OF



ONTARIO

303 EAST B STREET | ONTARIO, CALIFORNIA 91764

(909) 395-2000 FAX (909) 395-2070 [OntarioCA.gov](http://OntarioCA.gov)

PAUL S. LEON  
MAYOR

ALAN D. WAPNER  
MAYOR PRO TEM

JIM W. BOWMAN  
DEBRA DORST-PORADA  
RUBEN VALENCIA  
COUNCIL MEMBERS

SHEILA MAUTZ  
CITY CLERK

JAMES R. MILHISER  
TREASURER

SCOTT OCHOA  
CITY MANAGER

October 3, 2022

Kalpesh Solanki  
Bharat Patel  
Jaya Patel  
c/o FRANK WEISER, esq.  
3460 Wilshire Blvd., Ste. 1212  
Los Angeles, California 90010

Dear Mr. Solanki, Mr. Patel, and Mrs. Patel (Appellants):

You are hereby notified that a hearing will be held before the City of Ontario Building Appeals Board at Ontario City Hall Conference Room # 1, located at 303 East B Street, Ontario, California, on the 14<sup>th</sup> day of October, 2022, at the hour of 10:00 a.m., upon the Notice and Order to Vacate, Secure, and Repair/ Demolish served upon you and dated July 20, 2022. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Building Appeals Board.

Sincerely,

James Caro  
Secretary  
Building Appeals Board

JC/db