



CITY OF ONTARIO BUILDING BOARD OF APPEALS

SPECIAL MEETING AGENDA

January 25, 2023

2:15 PM

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

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

Roll Call

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

PUBLIC 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**

That the Building Appeals Board find there were sufficient grounds to post "Unsafe To Occupy" (yellow tag notices) on July 15, 2022; to issue the Notice and Order to Vacate, Secure, and Repair/Demolish ("Notice and Order") concerning the property located at 1045 West Mission Boulevard, Ontario, CA 91762 APN No. 1011-382-65-000 ("Property") on July 20, 2022; and that the City was justified in posting such notices in order to protect the health, safety, and welfare of the public

RESOLUTION NO. 2023 - ____

A RESOLUTION OF THE CITY OF ONTARIO BUILDING APPEALS REGARDING A NOTICE TO VACATE, SECURE, AND REPAIR/DEMOLISH ISSUED JULY 20, 2022, AND/OR YELLOW TAG NOTICES POSTED ON JULY 15, 2022 AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762, APN 1011-382-65

PUBLIC COMMENTS

If you challenge any action of the Building Board of Appeals 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 Board of Appeals 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 **January 24, 2023**, at least 24 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.

ADJOURNMENT

A handwritten signature in black ink that reads "Emily Medina". The signature is written in a cursive style and is positioned above a horizontal line.

Administrative Assistant

CITY OF ONTARIO

Staff Report
January 25, 2023

SECTION: PUBLIC HEARING BEFORE THE ONTARIO BUILDING APPEALS BOARD

SUBJECT: APPEAL OF NOTICE AND ORDER TO VACATE, SECURE, AND REPAIR/DEMOLISH PROPERTY LOCATED AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762, APN NO. 1011-382-65-000, DATED JULY 20, 2022 BY APPELLANTS: KALPESH SOLANKI (OWNER) AND BHARAT PATEL AND JAYA PATEL (PROPERTY MANAGERS/OCCUPANTS)

RECOMMENDATION: That the Building Appeals Board find there were sufficient grounds to post “Unsafe To Occupy” (yellow tag notices) on July 15, 2022; to issue the Notice and Order to Vacate, Secure, and Repair/Demolish (“Notice and Order”) concerning the property located at 1045 West Mission Boulevard, Ontario, CA 91762 APN No. 1011-382-65-000 (“Property”) on July 20, 2022; and that the City was justified in posting such notices in order to protect the health, safety, and welfare of the public.

BACKGROUND: The Property consists of a motel/inn near the corner of Mountain and Mission. The motel contains 44 separate rooms, a manager’s unit with a residence, an office and lobby, and a swimming pool as an amenity.

On or about June 28, 2022, the Ontario Police Department contacted the Building Department concerning a complaint received for the ceiling collapsing in two units on the Property, presumably due to a water leak from the upper floor. Supervising Building Inspector Matt Montieth responded, along with Building Official James Caro and confirmed that unpermitted construction was active and there was extensive water damage affecting four units on the Property. Mr. Montieth issued a Stop Work Order. City staff were advised by a contractor that the plumbing leak was a result of a screw being inadvertently placed into a plumbing line. Based on the placement of the line this seemed odd. City staff later learned from the police that it was actually due to a bullet having been shot into the ceiling a couple of days before the collapse and the bullet must have hit a plumbing line which caused the leak. On this date, one of the contractors advised that he was doing electrical work to all of the units. One of the rooms not affected by the plumbing leak, was actively being remodeled without permits. A Stop Work Order was issued for this unit as well as those units under rehab from the plumbing issue.

On or about July 8, 2022, the City received a complaint regarding an unauthorized hauler in violation of the Ontario Municipal Code. On or about July 12, 2022, Senior Community Improvement Officer Donald Flores spoke with the Building Department and learned that a Stop Work Order had been issued by the Building Department on June 28, 2022. He obtained a copy

STAFF MEMBERS PRESENTING: Matt Montieth, Supervising Building Inspector and Donald Flores, Senior Community Improvement Department Officer

of the Stop Work Order for his records. Officer Flores went to the Property and noted there was continuing construction taking place. Officer Flores met with the Property Manager and requested to inspect all units based on the visible unpermitted construction. Mr. Patel, the on-site manager presented a letter that the Owner's attorney had prepared in 2021 denying access for any inspections at the Property based on a Notice of Complaint that had been sent to the Owner on or about October 21, 2021. (Exhibits 2, 3.) A Notice of Need to Inspect was issued on July 12, 2022 to Mr. Patel. (Exhibit 4.) Later that day the Owner, Mr. Solanki contacted Officer Flores to state that he would have his attorney make contact with the City.

On or about July 13, 2022, the City obtained an Inspection Warrant authorizing it to conduct an inspection of the exterior and the interior of each unit at the Motel. (Exhibit 5.) A copy of the 24-hour Notice and Inspection Warrant were hand delivered to the Property Manager, Mr. Patel, and posted on each unit on July 14, 2022. Later that day, one of the occupants in room 110 called the City's attorney to consent to allow the inspection. The occupant reported that she had been relocated to room 110 due to the ceiling collapsing in her previous room. She stated she is careful not to plug in too many devices into the electrical outlets because she feels the electrical system is not up to par.

On or about July 15, 2022, the City executed the Inspection Warrant and conducted the inspection. Onsite representing the property owner were Peter Canaan and Mayra Valenzuela – both were cooperative and assisted with room/unit access. The inspection of all of the units revealed multiple violations, most in common with unpermitted construction and/or alterations. Two rooms were stripped down to the wood studs, no flooring, with alterations to both the plumbing and electrical systems. Several other rooms had violations consisting of missing or removed smoke detectors, substandard installation of lighting fixtures, plumbing alterations, holes in walls, graffiti, exposed wires, unpermitted electrical in all rooms (addition of canned lights/breach of fire separation between floors), electrical too close to the bath/shower services in several rooms, unpermitted windows, broken or non-operative AC units, water damaged ceilings, and mold. Overall dilapidation and substandard conditions were noted, including but not limited to a second floor balcony/passageway in a deteriorated or damaged condition, and an unprotected/hazardous swimming pool. Photographs were taken. (Exhibit 6.) Yellow tag vacate notices were posted at that time by the Building Department, declaring the units as unsafe to occupy. (Exhibit 7.) City staff informed the Owner's representatives and any tenants who inquired about the postings, that the City would be issuing a formal Notice and Order in the next few days which would require that the units be vacated within 72 hours. Many of these tenants expressed concern that the electrical in their rooms was unsafe and that the heaters/furnaces were not working properly and stated they would voluntarily leave.

On or about July 17, 2022, the Owner's attorney, Mr. Weiser sent a letter titled Appeal of Inspection and Closure of Best Ontario Inn located at the Property. The letter alleged execution of the warrant was improper and threatened suit in the federal district court for constitutional violations. The letter also disputed that an emergency existed such that the motel needed to be designated as "unsafe to occupy" with notices to vacate posted. (Exhibit 8.)

On or about July 20, 2022, the City issued a Notice and Order to Vacate, Secure, and Repair/Demolish ("Notice and Order"). (Exhibit 9.) The Notice and Order lists the violations of the

Uniform Code for the Abatement of Dangerous Buildings, Chapter 3, the California Health and Safety Code Section 17920.3, and California Building Code Section 1.8.4.1. Under the provisions of Section 202 of the Uniform Code for the Abatement of Dangerous Buildings, the Building Official found, determined, and declared that the dangerous conditions constituted an immediate danger to the life, limb, property or safety of the public or occupants of the building(s), sufficient that the structures must be vacated within 72 hours due to hazardous construction and/or hazardous conditions. The Notice required the Owner to obtain permits within 20 days and commence repairs within 30 days of the Notice and Order. The Notice and Order was mailed to the Owner, hand delivered to the Owner Mr. Solanki on site, and posted.

On or about July 25, 2022, Building Official James Caro, Building Inspector Matt Montieth, Senior Community Improvement Officer Donald Flores, and the City's attorney, Charisse Smith, met on site with the Owner, the Owner's contractor, and the Owner's attorney, Mr. Frank Weiser. Officer Flores verified that all units open to the public had been voluntarily vacated. Thus, an abatement warrant to vacate the premises was not necessary. The City did not forcibly remove anyone from the Property. City staff issued notices, posted the Property, and the Owner voluntarily vacated the units. The only occupied unit was the Manager's Unit. The Manager requested that the City not vacate the Manager's Unit immediately so that the Manager could provide on-site security and because of some precarious medical conditions of the Manager's wife. While the Manager's Unit is subject to the Notice and Order and Yellow Tag Notices to vacate, no affirmative action has been taken by the City to forcibly vacate the manager's unit or any other unit. At the on-site meeting Mr. Caro went over the violations with the Owner's contractors and Mr. Weiser and explained that a full set of plans showing all alterations and how they are to be corrected was to be submitted to the Building Department. He explained that once plans were approved for the entire project, the Owner could finish blocks of rooms and if they were deemed safe, the Building Department would consider allowing occupancy of the finished sections of the motel.

A timely appeal of the Notice and Order was filed with the City on or about August 17, 2022 to preserve the Appellant's appeal rights while the Owner attempted to comply with the Notice and Order by submitting plans. (Exhibit 10.) An initial set of plans were submitted on or about August 18, 2022, however they were incomplete as they did not include all units, and only included the four units where work had begun without permits and a Stop Work Order had been issued. Since that time, the plans have been in and out of plan check requiring corrections and there have been at least two meetings with the Owner or Owner's agents regarding the same.

An initial Appeal Hearing was scheduled for October 14, 2022 at 10:00 a.m. (Exhibit 11.) However, Mr. Weiser had a scheduling conflict and requested a continuance of the appeal hearing. The City sent an e-mail acknowledging the request and requesting dates of availability in November. (Exhibit 12.) A request was made in November to schedule a December hearing and a hearing was tentatively arranged for December 8, 2022; however the Owner was leaving the country from December 8 through January 17. Therefore, the City scheduled the hearing for January 19, 2023 (Exhibit 13), which was continued to January 25, 2023, at 2:00 p.m.

RECOMMENDATION: That the Building Appeals Board adopt the proposed Resolution attached hereto as Exhibit A.

RESOLUTION NO. 2023 - _____

A RESOLUTION OF THE CITY OF ONTARIO BUILDING APPEALS REGARDING A NOTICE TO VACATE, SECURE, AND REPAIR/DEMOLISH ISSUED JULY 20, 2022, AND/OR YELLOW TAG NOTICES POSTED ON JULY 15, 2022 AT 1045 WEST MISSION BOULEVARD, ONTARIO, CA 91762, APN 1011-382-65

WHEREAS, the Property located at 1045 West Mission Boulevard, Ontario, California 91762, Assessor's Parcel Number 1011-382-65 (the "Property") is owned by Kalpesh Solanki (Exhibit 1); and

WHEREAS, the Property was inspected on June 28, 2022, and unpermitted work was actively taking place in several units, and City staff issued Stop Work Orders (Exhibit 4); and

WHEREAS, City staff sought consent to inspect on July 12, 2022, but was denied consent (Exhibits 2-4); and

WHEREAS, City staff obtained Inspection Warrant No. MISC223360 from the California Superior Court on July 13, 2022 (Exhibit 5); and

WHEREAS, pursuant to the Inspection Warrant, City staff conducted an inspection of the Property on July 15, 2022 finding and documenting several substandard conditions/violations of the Ontario Municipal Code throughout the Property and posted the units at the Property with Yellow Tag Notices and Notices of Correction (Exhibits 6-7 and Exhibits 14-17); and

WHEREAS, based on the substandard conditions/violations of the municipal code found on July 15, 2022, the City issued a Notice and Order to Vacate, Secure, and Repair/Demolish dated July 20, 2022 (Exhibit 9); and

WHEREAS, the Owner and on-site Property Managers have appealed the City's Yellow Tag Notices issued July 15, 2022 and Notice and Order to Vacate, Secure, and Repair/Demolish dated July 20, 2022 (Exhibits 8, 10, 19); and

WHEREAS, an initial hearing was scheduled in October 2022, and for a variety of reasons the hearing was continued to January 25, 2023 (Exhibits 11-13); and

WHEREAS, between July 15, 2022 and the present, the Owner, Mr. Solanki, and/or his professionals, has been working with City staff on the plan check process to obtain the required permit(s) necessary to correct the conditions listed in the City's Notice and Order to Vacate, Secure, and Repair/Demolish dated July 20, 2022 (Exhibit 20).

NOW, THEREFORE, the City of Ontario Building Appeals Board, having considered all of the evidence before it and hearing from City staff and the Appellants, hereby resolves as follows:

1. That a timely appeal request was made by the appellants.
2. That a timely appeal hearing was given to appellants.

3. 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.
- 4.. That on July 15, 2022, there were in fact electrical system alterations in violation of Health & Safety Code Section 17920.3(d).
5. That on July 15, 2022, there were in fact plumbing and/or gas alterations in violation of California Building Code Section 1.8.4.1.
6. That the conditions found on July 15, 2022 were sufficient to render the building dangerous as defined by Section 302 of the Uniform Code for the Abatement of Dangerous Buildings as adopted in Section 8-11.01 of the Ontario Municipal Code namely definition 2, definition 4, definition 9, definition 13, definition 16, and definition 17.
7. 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 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, in light of the collapse of one area of the building due to leaking plumbing and given the numerous plumbing alterations and electrical alterations made to the remainder of the building, which was being occupied by members of the public.
8. 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 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 a Notice to Vacate within 72 hours due to the hazardous construction and/or hazardous conditions at the Property, in light of the collapse of one area of the building due to leaking plumbing and given the numerous plumbing alterations and electrical alterations made to the remainder of the building, which was being occupied by members of the public.
9. 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 Section 401.2(3.2) of the Uniform Code for the Abatement of Dangerous Buildings.
10. That a copy of this Decision/Resolution shall be mailed by first class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to Appellants' attorney, Frank Weiser.
11. That this Decision/Resolution 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.

ADOPTED this ____ day of _____, 2023.

City of Ontario Building Appeals Board

ATTEST:

I, Sheila Mautz, City Clerk of the City of Ontario, California do hereby certify that the foregoing Resolution No. 2023-_____ was duly passed and adopted at a regular meeting of the Ontario Building Appeals Board on the 25th day of January, 2023 by the following vote:

- AYES: BOARD MEMBERS:**
- NOES: BOARD MEMBERS:**
- ABSENT: BOARD MEMBERS:**
- ABSTAIN: BOARD MEMBERS:**

Sheila Mautz, City Clerk
City of Ontario

EVIDENCE/EXHIBITS AND REQUEST FOR OFFICIAL NOTICE:

Exhibit A – Proposed Resolution No. 2023-_____

Exhibit 1 – Grant Deed

Exhibit 2 – Notice of Complaint dated October 21, 2021

Exhibit 3 – Letter from Frank A. Weiser dated November 9, 2021

Exhibit 4 – Notice of Need to Inspect Issued July 12, 2022, with photos, including Stop Work Order issued June 28, 2022

Exhibit 5 – Inspection Warrant No. MISC223360 Issued July 13, 2022

Exhibit 6 – Photographs taken July 15, 2022

Exhibit 7 – Sample Yellow Tag Notice and Notice of Correction posted at Property on July 15, 2022

Exhibit 8 – Owner’s Letter dated July 17, 2022

Exhibit 9 – Notice and Order to Vacate, Secure, and Repair/Demolish dated July 20, 2022

Exhibit 10 – Owner’s Request for Appeal dated August 17, 2022

Exhibit 11 – City’s Initial Notice of Hearing on Appeal dated October 3, 2022

Exhibit 12 – City’s E-mail re Owner’s Request to continue the Appeal hearing

Exhibit 13 – City’s Notice of Hearing on Appeal dated January 3, 2023

Exhibit 14 – Ontario Municipal Code Section 8-11.01

Exhibit 15 – 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings

Exhibit 16 – California Building Code Section 1.8.4.1

Exhibit 17 – California Health and Safety Code Section 17920.3

Exhibit 18 – Agenda Report re Appointment of Members to the Building Appeals Board 11/1/2022

Exhibit 19 – Supplement Appeal Statement from Appellants

Exhibit 20 – Appellants’ Documents

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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
CHARISSE L. 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;

- 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.

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

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

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

IT IS SO ORDERED.

Dated: This 13th day of July, 2022



[Signature]

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)

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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. **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.]

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

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
23 inspection.

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

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 Donald Flores
19 Senior Community Improvement Officer
City of Ontario

20 Subscribed and sworn before me this 13TH day of July 2022.




Judge of the Superior Court
CARA D. HUTSON

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

TO: KALPESH P. SOLANKI

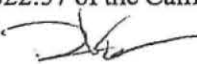
OR ANY OCCUPANT OF 1045 WEST MISSION BOULEVARD, ONTARIO, CA

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)

RECORDING REQUESTED BY:

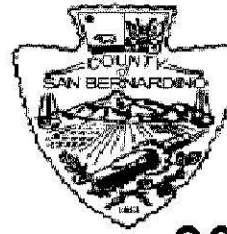
Provident Title Company

AND WHEN RECORDED MAIL TO:

Kalpesh Solanki
6939 Schaefer Avenue D 235
Chino, CA 91710

Electronically Recorded in Official Records, County of San Bernardino

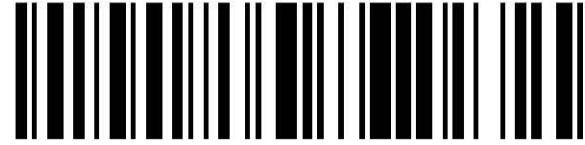
9/22/2017
03:59 PM
CG



BOB DUTTON
ASSESSOR - RECORDER - CLERK
949 Provident Title Company

Doc #: **2017-0393399**

Titles:	1	Pages:	3
Fees			31.00
Taxes			4620.00
Other			.00
PAID			4651.00



Title Order No.: 11362724

Escrow No.: 132672-008

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX is \$4,620.00

computed on full value of property conveyed, or
 computed on full value less value of liens or encumbrances remaining at time of sale.
 Unincorporated area City of Ontario

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

**RAMESHCHANDRA H. PATEL and JASHUBEN R. PATEL, Trustees of the
Rameshchandra H. and Jashuben R. Patel AB Living Trust**

hereby GRANT(s) to:

KALPESH P. SOLANKI, a married man, as his sole and separate property

the real property in the City of Ontario, County of San Bernardino, State of California,
described as:

PARCEL 2 OF PARCEL MAP NO. 4297, RECORDED IN BOOK 39 PAGE 8 OF PARCEL MAPS,
TOGETHER WITH THE EAST 75.00 FEET OF THE SOUTH 284.00 FEET OF THE NORTH 302.00
FEET OF LOT 3, BLOCK 16, MONTE VISTA TRACT NO. 2, RECORDED IN BOOK 16 PAGE 33 OF
MAPS, RECORDS OF SAN BERNARDINO, STATE OF CALIFORNIA.

THE ABOVE LEGAL DESCRIPTION IS PURSUANT TO THAT LOT LINE ADJUSTMENT (MERGER)
L91-05 RECORDED FEBRUARY 5, 1991 AS INSTRUMENT NO. 91-41704 OF OFFICIAL
RECORDS.

APN: 1011-382-65-0-000

August 22, 2017

**Signature Page attached hereto
and made a part hereof**

MAIL TAX STATEMENTS TO PARTY SHOWN BELOW; IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE:

Title Order No.: 11362724
Escrow No.: 132672-008
APN: 1011-382-65-0-000

Signature Page

DATED: August 22, 2017

THE RAMESHCHANDRA H. AND
JASHUBEN R. PATEL AB LIVING TRUST

By: 
Rameshchandra H. Patel, Trustee

By: 
Jashuben R. Patel, Trustee

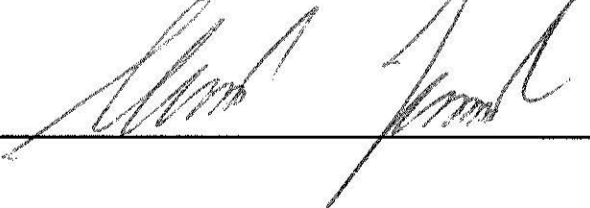
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

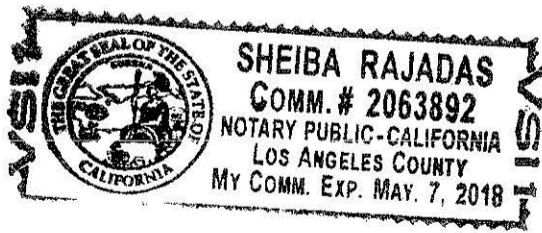
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS

On SEPTEMBER 18, 2017 before me, SHEIBA RAJADAS, a Notary Public personally appeared, Rameshchandra H. Patel and Jashuben R. Patel, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.





ILLEGIBLE NOTARY SEAL DECLARATION

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary SHEIBA RAJADAS

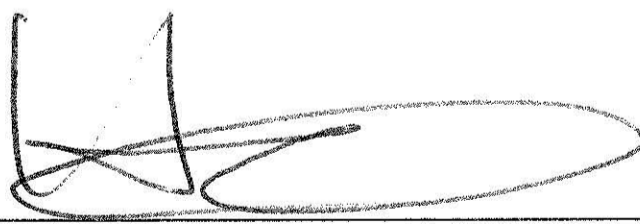
Date Commission Expires 5/7/2018

Notary Identification Number 2063892
(For Notaries commissioned after 1-1-1992)

Manufacturer/Vendor Identification Number NNA1
(For Notaries commissioned after 1-1-1992)

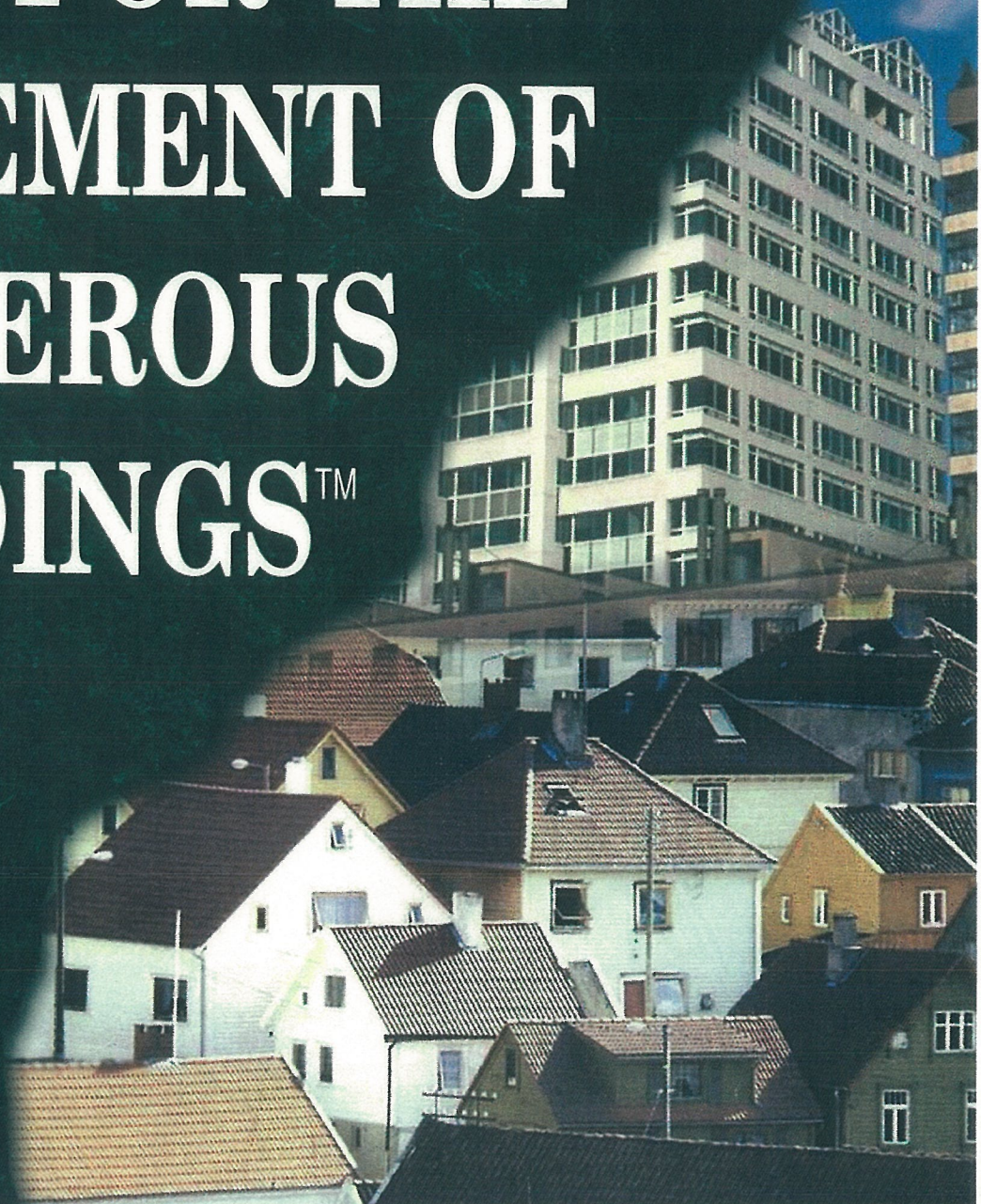
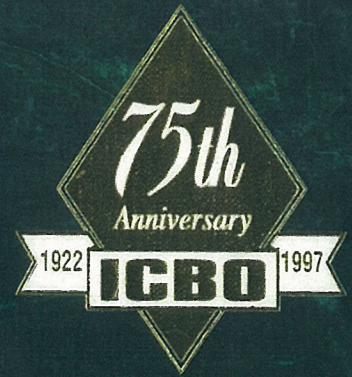
Place of Execution of this Declaration SHERMAN OAKS, CA

Date 9/22/2017


ELLEN LEE

PL
A23
In8ab
1997

1997 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS™



RECEIVED

MAY 20 1997

BEST. BEST & KRIEGER

1997

UNIFORM CODE
FOR THE ABATEMENT
OF DANGEROUS
BUILDINGS™



First Printing

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5360 WORKMAN MILL ROAD
WHITTIER, CALIFORNIA 90601-2298
(800) 284-4406 • (562) 699-0541

PRINTED IN THE U.S.A.

Preface

The provisions of this code were developed to afford jurisdictions reasonable procedures for the classification and abatement of dangerous buildings.

This code is designed to be compatible with the *Uniform Building Code*[™] and the *Uniform Housing Code*[™]. While the Housing Code is applicable only to residential buildings, the *Uniform Code for the Abatement of Dangerous Buildings*[™] is designed to apply to all types of buildings and structures. The notices, orders and appeals procedures specified have been found to be workable and are referenced by the *Uniform Building Code*.

If properly followed, the provisions of this code will provide the building official with the proper legal steps in abating dilapidated, defective buildings which endanger life, health, property and public safety within concepts of fair play and justice.

CODES AND RELATED PUBLICATIONS

The International Conference of Building Officials (ICBO) publishes a family of codes, each correlated with the *Uniform Building Code*™ to provide jurisdictions with a complete set of building-related regulations for adoption. Some of these codes are published in affiliation with other organizations such as the International Fire Code Institute (IFCI) and the International Code Council (ICC). Reference materials and related codes also are available to improve knowledge of code enforcement and administration of building inspection programs. Publications and products are continually being added, so inquiries should be directed to Conference headquarters for a listing of available products. Many codes and references are also available on CD-ROM or floppy disk. These are denoted by (*). The following publications and products are available from ICBO:

CODES

***Uniform Building Code**, Volumes 1, 2 and 3. The most widely adopted model building code in the United States, the performance-based *Uniform Building Code* is a proven document, meeting the needs of government units charged with the enforcement of building regulations. Volume 1 contains administrative, fire- and life-safety and field inspection provisions; Volume 2 contains structural engineering design provisions; and Volume 3 contains material, testing and installation standards.

***Uniform Mechanical Code**™. Provides a complete set of requirements for the design, construction, installation and maintenance of heating, ventilating, cooling and refrigeration systems; incinerators and other heat-producing appliances.

International Plumbing Code™. Provides consistent and technically advanced requirements that can be used across the country to provide comprehensive regulations of modern plumbing systems. Setting minimum regulations for plumbing facilities in terms of performance objectives, the IPC provides for the acceptance of new and innovative products, materials and systems.

International Private Sewage Disposal Code™. Provides flexibility in the development of safety and sanitary individual sewage disposal systems and includes detailed provisions for all aspects of design, installation and inspection of private sewage disposal systems.

International Mechanical Code™. Establishes minimum regulations for mechanical systems using prescriptive and performance-related provisions. It is founded on broad-based principles that make possible the use of new materials and new mechanical designs.

Uniform Zoning Code™. This code is dedicated to intelligent community development and to the benefit of the public welfare by providing a means of promoting uniformity in zoning laws and enforcement.

***Uniform Fire Code**™, Volumes 1 and 2. The premier model fire code in the United States, the *Uniform Fire Code* sets forth provisions necessary for fire prevention and fire protection. Published by the International Fire Code Institute, the *Uniform Fire Code* is endorsed by the Western Fire Chiefs Association, the International Association of Fire Chiefs and ICBO. Volume 1 contains code provisions compatible with the *Uniform Building Code*, and Volume 2 contains standards referenced from the code provisions.

***Urban-Wildland Interface Code**™. Promulgated by IFCI, this code regulates both land use and the built environment in designated urban-wildland interface areas. This newly developed code is the only model code that bases construction requirements on the fire-hazard severity exposed to the structure. Developed under a grant from the Federal Emergency Management Agency, this code is the direct result of hazard mitigation meetings held after devastating wildfires.

Uniform Housing Code™. Provides complete requirements affecting conservation and rehabilitation of housing. Its regulations are compatible with the *Uniform Building Code*.

Uniform Code for the Abatement of Dangerous Buildings™. A code compatible with the *Uniform Building Code* and the *Uniform Housing Code* which provides equitable remedies consistent with other laws for the repair, vacation or demolition of dangerous buildings.

Uniform Sign Code™. Dedicated to the development of better sign regulation, its requirements pertain to all signs and sign construction attached to buildings.

Uniform Administrative Code™. This code covers administrative areas in connection with adoption of the *Uniform Building Code*,

Uniform Mechanical Code and related codes. It contains provisions which relate to site preparation, construction, alteration, moving, repair and use and occupancies of buildings or structures and building service equipment, including plumbing, electrical and mechanical regulations. The code is compatible with the administrative provisions of all codes published by the Conference.

Uniform Building Security Code™. This code establishes minimum standards to make dwelling units resistant to unlawful entry. It regulates swinging doors, sliding doors, windows and hardware in connection with dwelling units of apartment houses or one- and two-family dwellings. The code gives consideration to the concerns of police, fire and building officials in establishing requirements for resistance to burglary which are compatible with fire and life safety.

Uniform Code for Building Conservation™. A building conservation guideline presented in code format which will provide a community with the means to preserve its existing buildings while achieving appropriate levels of safety. It is formatted in the same manner as the *Uniform Building Code*, is compatible with other Uniform Codes, and may be adopted as a code or used as a guideline.

Dwelling Construction under the Uniform Building Code™. Designed primarily for use in home building and apprentice training, this book contains requirements applicable to the construction of one- and two-story dwellings based on the requirements of the *Uniform Building Code*. Available in English or Spanish.

Dwelling Construction under the Uniform Mechanical Code™. This publication is for the convenience of the homeowner or contractor interested in installing mechanical equipment in a one- or two-family dwelling in conformance with the *Uniform Mechanical Code*.

Supplements to UBC and related codes. Published in the years between editions, the Supplements contain all approved changes, plus an analysis of those changes.

Uniform Building Code—1927 Edition. A special 60th anniversary printing of the first published *Uniform Building Code*.

One and Two Family Dwelling Code. Promulgated by ICC, this code eliminates conflicts and duplications among the model codes to achieve national uniformity. Covers mechanical and plumbing requirements as well as construction and occupancy.

Application and Commentary on the One and Two Family Dwelling Code. An interpretative commentary on the *One and Two Family Dwelling Code* intended to enhance uniformity of interpretation and application of the code nationwide. Developed by the three model code organizations, this document includes numerous illustrations of code requirements and the rationale for individual provisions.

Model Energy Code. This code includes minimum requirements for effective use of energy in the design of new buildings and structures and additions to existing buildings. It is based on American Society of Heating, Refrigeration and Air-conditioning Engineers Standard 90A-1980 and was originally developed jointly by ICBO, BOCA, SBCCI and the National Conference of Building Codes and Standards under a contract funded by the United States Department of Energy. The code is now maintained by ICC and is adopted by reference in the *Uniform Building Code*.

National Electrical Code®. The electrical code used throughout the United States. Published by the National Fire Protection Association, it is an indispensable aid to every electrician, contractor, architect, builder, inspector and anyone who must specify or certify electrical installations.

TECHNICAL REFERENCES AND EDUCATIONAL MATERIALS

Analysis of Revisions to the Uniform Codes™. An analysis of changes between the previous and new editions of the Uniform Codes is provided. Changes between code editions are noted either at the beginning of chapters or in the margins of the code text.

***Handbook to the Uniform Building Code.** The handbook is a completely detailed and illustrated commentary on the *Uniform Building Code*, tracing historical background and rationale of the codes through the current edition. Also included are numerous drawings and figures clarifying the application and intent of the code provisions. Also available in electronic format.

***Handbook to the Uniform Mechanical Code.** An indispensable tool for understanding the provisions of the current UMC, the handbook traces the historical background and rationale behind the UMC provisions, includes 160 figures which clarify the intent and application of the code, and provides a chapter-by-chapter analysis of the UMC.

***Uniform Building Code Application Manual.** This manual discusses sections of the *Uniform Building Code* with a question-and-answer format, providing a comprehensive analysis of the intent of the code sections. Most sections include illustrative examples. The manual is in loose-leaf format so that code applications published in *Building Standards* magazine may be inserted. Also available in electronic format.

***Uniform Mechanical Code Application Manual.** As a companion document to the *Uniform Mechanical Code*, this manual provides a comprehensive analysis of the intent of a number of code sections in an easy-to-use question-and-answer format. The manual is available in a loose-leaf format and includes illustrative examples for many code sections.

***Uniform Fire Code Applications Manual.** This newly developed manual provides questions and answers regarding UFC provisions. A comprehensive analysis of the intent of numerous code sections, the manual is in a loose-leaf format for easy insertion of code applications published in IFCI's *Fire Code Journal*.

Quick-Reference Guide to the Occupancy Requirements of the 1997 UBC. Code requirements are compiled in this publication by occupancy groups for quick access. These tabulations assemble requirements for each occupancy classification in the code. Provisions, such as fire-resistive ratings for occupancy separations in Table 3-B, exterior wall and opening protection requirements in Table 5-A-1, and fire-resistive ratings for types of construction in Table 6-A, are tabulated for quick reference and comparison.

Plan Review Manual. A practical text that will assist and guide both the field inspector and plan reviewer in applying the code requirements. This manual covers the nonstructural and basic structural aspects of plan review.

Field Inspection Manual. An important fundamental text for courses of study at the community college and trade or technical school level. It is an effective text for those studying building construction or architecture and includes sample forms and checklists for use in the field.

Building Department Administration. An excellent guide for improvement of skills in departmental management and in the enforcement and application of the Building Code and other regulations administered by a building inspection department. This textbook will also be a valuable aid to instructors, students and those in related professional fields.

Building Department Guide to Disaster Mitigation. This new, expanded guide is designed to assist building departments in developing or updating disaster mitigation plans. Subjects covered include guidelines for damage mitigation, disaster-response management, immediate response, mutual aid and inspections, working with the media, repair and recovery policies, and public information bulletins. This publication is a must for those involved in preparing for and responding to disaster.

Building Official Management Manual. This manual addresses the unique nature of code administration and the managerial duties of the building official. A supplementary insert addresses the budgetary

and financial aspects of a building department. It is also an ideal resource for those preparing for the management module of the CABO Building Official Certification Examination.

Legal Aspects of Code Administration. A manual developed by the three model code organizations to inform the building official on the legal aspects of the profession. The text is written in a logical sequence with explanation of legal terminology. It is designed to serve as a refresher for those preparing to take the legal module of the CABO Building Official Certification Examination.

Illustrated Guide to Conventional Construction Provisions of the UBC. This comprehensive guide and commentary provides detailed explanations of the conventional construction provisions in the UBC, including descriptive discussions and illustrated drawings to convey the prescriptive provisions related to wood-frame construction.

Introduction to the Uniform Building Code. A workbook that provides an overview of the basics of the UBC.

Uniform Building Code Update Workbook. This manual addresses many of the changes to the administrative, fire- and life-safety, and inspection provisions appearing in the UBC.

UMC Workbook. Designed for independent study or use with instructor-led programs based on the *Uniform Mechanical Code*, this comprehensive study guide consists of 16 learning sessions, with the first two sessions reviewing the purpose, scope, definitions and administrative provisions and the remaining 14 sessions progressively exploring the requirements for installing, inspecting and maintaining heating, ventilating, cooling and refrigeration systems.

UBC Field Inspection Workbook. A comprehensive workbook for studying the provisions of the UBC. Divided into 12 sessions, this workbook focuses on the UBC combustible construction requirements for the inspection of wood-framed construction.

Concrete Manual. A publication for individuals seeking an understanding of the fundamentals of concrete field technology and inspection practices. Of particular interest to concrete construction inspectors, it will also benefit employees of concrete producers, contractors, testing and inspection laboratories and material suppliers.

Reinforced Concrete Masonry Construction Inspector's Handbook. A comprehensive information source written especially for masonry inspection covering terminology, technology, materials, quality control, inspection and standards. Published jointly by ICBO and the Masonry Institute of America.

You Can Build It! Sponsored by ICBO in cooperation with CABO, this booklet contains information and advice to aid "do-it-yourselfers" with building projects. Provides guidance in necessary procedures such as permit requirements, codes, plans, cost estimation, etc.

Guidelines for Manufactured Housing Installations. A guideline in code form implementing the *Uniform Building Code* and its companion code documents to regulate the permanent installation of a manufactured home on a privately owned, nonrental site. A commentary is included to explain specific provisions, and codes applying to each component part are defined.

Accessibility Reference Guide. This guide is a valuable resource for architects, interior designers, plan reviewers and others who design and enforce accessibility provisions. Features include accessibility requirements, along with detailed commentary and graphics to clarify the provisions; cross-references to other applicable sections of the UBC and the Americans with Disabilities Act Accessibility Guidelines; a checklist of UBC provisions on access and usability requirements; and many other useful references.

Educational and Technical Reference Materials. The Conference has been a leader in the development of texts and course material to assist in the educational process. These materials include vital information necessary for the building official and subordinates in carrying out their responsibilities and have proven to be excellent references in connection with community college curricula and higher-level courses in the field of building construction technology and inspection and in the administration of building departments. Included are plan review checklists for structural, nonstructural, mechanical and fire-safety provisions and a full line of videotapes and automated products.

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Chapter 1 TITLE AND SCOPE

SECTION 101 — TITLE

These regulations shall be known as the *Uniform Code for the Abatement of Dangerous Buildings*, may be cited as such, and will be referred to herein as "this code."

SECTION 102 — PURPOSE AND SCOPE

102.1 Purpose. It is the purpose of this code to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by the Building Code, Housing Code or otherwise available by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished.

The purpose of this code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.

102.2 Scope. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

SECTION 103 — ALTERATIONS, ADDITIONS AND REPAIRS

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Section 3403 of the Building Code.

Chapter 2 ENFORCEMENT

SECTION 201 — GENERAL

201.1 Administration. The building official is hereby authorized to enforce the provisions of this code.

The building official shall have the power to render interpretations of this code and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this code.

201.2 Inspections. The health officer, the fire marshal and the building official are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.

201.3 Right of Entry. When it is necessary to make an inspection to enforce the provisions of this code, or when the building official or the building official's authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this code which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

"Authorized representative" shall include the officers named in Section 201.2 and their authorized inspection personnel.

SECTION 202 — ABATEMENT OF DANGEROUS BUILDINGS

All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Section 401 of this code.

SECTION 203 — VIOLATIONS

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this code.

SECTION 204 — INSPECTION OF WORK

All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the building official in accordance with and in the manner provided by this code and Sections 108 and 1701 of the Building Code.

SECTION 205 — BOARD OF APPEALS

205.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass upon matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant, with a duplicate copy to the building official. Appeals to the board shall be processed in accordance with the provisions contained in Section 501 of this code. Copies of all rules or regulations adopted by the board shall be delivered to the building official, who shall make them freely accessible to the public.

205.2 Limitations of Authority. The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

Chapter 3 DEFINITIONS

SECTION 301 — GENERAL

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in either this chapter or as specified in the Building Code or the Housing Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster's Third New International Dictionary of the English Language, Unabridged*, copyright 1986, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

BUILDING CODE is the *Uniform Building Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 302 of this code.

HOUSING CODE is the *Uniform Housing Code* promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

SECTION 302 — DANGEROUS BUILDING

For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered.

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged to provide safe and adequate means of exit in case of fire or panic.
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.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
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 for new buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

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.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

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.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any 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.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

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.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

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 jurisprudence.

18. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

Chapter 4

NOTICES AND ORDERS OF BUILDING OFFICIAL

SECTION 401 — GENERAL

401.1 Commencement of Proceedings. When the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, the building official shall commence proceedings to cause the repair, vacation or demolition of the building.

401.2 Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
 2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.
 3. A statement of the action required to be taken as determined by the building official.
 - 3.1 If the building official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed 60 days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.
 - 3.2 If the building official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the building official to be reasonable.
 - 3.3 If the building official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the building official shall determine is reasonable (not to exceed 60 days from the date of the order); that all required permits be secured therefor within 60 days from the date of the order; and that the demolition be completed within such time as the building official shall determine is reasonable.
 4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the building official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
 5. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the building official to the board of appeals, provided the appeal is made in writing as provided in this code and filed with the building official within 30 days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.
- 401.3 Service of Notice and Order.** The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the

building official or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

401.4 Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.

401.5 Proof of Service. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

SECTION 402 — RECORDATION OF NOTICE AND ORDER

If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the building official shall file in the office of the county recorder a certificate describing the property and certifying (i) that the building is a dangerous building and (ii) that the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a dangerous building on the property described in the certificate, the building official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer dangerous, whichever is appropriate.

SECTION 403 — REPAIR, VACATION AND DEMOLITION

The following standards shall be followed by the building official (and by the board of appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:

1. Any building declared a dangerous building under this code shall be made to comply with one of the following:
 - 1.1 The building shall be repaired in accordance with the current building code or other current code applicable to the type of substandard conditions requiring repair; or
 - 1.2 The building shall be demolished at the option of the building owner; or

1.3 If the building does not constitute an immediate danger to the life, limb, property or safety of the public it may be vacated, secured and maintained against entry.

2. If the building or structure is in such condition as 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.

SECTION 404 — NOTICE TO VACATE

404.1 Posting. Every notice to vacate shall, in addition to being served as provided in Section 401.3, be posted at or upon each exit of the building and shall be in substantially the following form:

**DO NOT ENTER
UNSAFE TO OCCUPY**

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
..... of

404.2 Compliance. Whenever such notice is posted, the building official shall include a notification thereof in the notice and order issued under Section 401.2, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

**Chapter 5
APPEAL**

SECTION 501 — GENERAL

501.1 Form of Appeal. Any person entitled to service under Section 401.3 may appeal from any notice and order or any action of the building official under this code by filing at the office of the building official a written appeal containing:

1. A heading in the words: "Before the board of appeals of the of"
2. A caption reading: "Appeal of," giving the names of all appellants participating in the appeal.
3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signatures of all parties named as appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within 30 days from the date of the service of such order or action of the building official; provided, however, that if the 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, such appeal shall be filed within 10 days from the date of the service of the notice and order of the building official.

501.2 Processing of Appeal. Upon receipt of any appeal filed pursuant to this section, the building official shall present it at the next regular or special meeting of the board of appeals.

501.3 Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the board of appeals shall fix a date, time and place for the hearing of the appeal by the board. Such date shall not be less than 10 days nor more than 60 days from the date the appeal was filed with the building official. Written notice of the time and place of the hearing shall be given at least 10 days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.

SECTION 502 — EFFECT OF FAILURE TO APPEAL

Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of the right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SECTION 503 — SCOPE OF HEARING ON APPEAL

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

SECTION 504 — STAYING OF ORDER UNDER APPEAL

Except for vacation orders made pursuant to Section 404, enforcement of any notice and order of the building official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

Chapter 6

PROCEDURES FOR CONDUCT OF HEARING APPEALS

SECTION 601 — GENERAL

601.1 Hearing Examiners. The board may appoint one or more hearing examiners or designate one or more of its members to serve as hearing examiners to conduct the hearings. The examiner hearing the case shall exercise all powers relating to the conduct of hearings until it is submitted to the board for decision.

601.2 Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.

601.3 Reporting. The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the board, but shall in no event be greater than the cost involved.

601.4 Continuances. The board may grant continuances for good cause shown; however, when a hearing examiner has been assigned to such hearing, no continuances may be granted except by the examiner for good cause shown so long as the matter remains before the examiner.

601.5 Oaths—Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

601.6 Reasonable Dispatch. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

SECTION 602 — FORM OF NOTICE OF HEARING

The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before (the board of appeals or name of hearing examiner) at on the day of, 19, at the hour, upon the notice and order served upon you. 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 (board of appeals or name of hearing examiner).”

SECTION 603 — SUBPOENAS

603.1 Filing of Affidavit. The board or examiner may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired

things in possession or under control. A subpoena need not be issued when the affidavit is defective in any particular.

603.2 Cases Referred to Examiner. In cases where a hearing is referred to an examiner, all subpoenas shall be obtained through the examiner.

603.3 Penalties. Any person who refuses without lawful excuse to attend any hearing or to produce material evidence which the person possesses or controls as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

SECTION 604 — CONDUCT OF HEARING

604.1 Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

604.2 Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

604.3 Hearsay Evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

604.4 Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

604.5 Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

604.6 Rights of Parties. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called the witness to testify;
5. To rebut the evidence; and
6. To be represented by anyone who is lawfully permitted to do so.

604.7 Official Notice.

604.7.1 What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board.

604.7.2 Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

604.7.3 Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board or hearing examiner.

604.7.4 Inspection of the premises. The board or the hearing examiner may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board or the hearing examiner shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board or hearing examiner.

SECTION 605 — METHOD AND FORM OF DECISION

605.1 Hearing before Board Itself. When a contested case is heard before the board itself, a member thereof who did not hear the evidence or has not read the entire record of the proceedings shall not vote on or take part in the decision.

605.2 Hearing before Examiner. If a contested case is heard by a hearing examiner alone, the examiner shall within a reasonable time (not to exceed 90 days from the date the hearing is closed) submit a written report to the board. Such report shall contain a brief summary of the evidence considered and state the examiner's findings, conclusions and recommendations. The report also shall contain a proposed decision in such form that it may be adopted by the board as its decision in the case. All examiner's reports filed with the board shall be matters of public record. A copy of each such report and proposed decision shall be mailed to each party on the date they are filed with the board.

605.3 Consideration of Report by Board—Notice. The board shall fix the time, date and place to consider the examiner's report and proposed decision. Notice thereof shall be mailed to each interested party not less than five days prior to the date fixed, unless it is otherwise stipulated by all of the parties.

605.4 Exceptions to Report. Not later than two days before the date set to consider the report, any party may file written exceptions to any part or all of the examiner's report and may attach thereto a proposed decision together with written argument in support of such decision. By leave of the board, any party may present oral argument to the board.

605.5 Disposition by the Board. The board may adopt or reject the proposed decision in its entirety, or may modify the proposed decision.

605.6 Proposed Decision Not Adopted. If the proposed decision is not adopted as provided in Section 605.5, the board may decide the case upon the entire record before it, with or without taking additional evidence, or may refer the case to the same or another hearing examiner to take additional evidence. If the case is reassigned to a hearing examiner, the examiner shall prepare a report and proposed decision as provided in Section 605.2 hereof after any additional evidence is submitted. Consideration of such proposed decision by the board shall comply with the provisions of this section.

605.7 Form of Decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested.

605.8 Effective Date of Decision. The effective date of the decision shall be as stated therein.

Chapter 7
ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL
OR THE BOARD OF APPEALS

SECTION 701 — COMPLIANCE

701.1 General. After any order of the building official or the board of appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a misdemeanor.

701.2 Failure to Obey Order. If, after any order of the building official or board of appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building official may (i) cause such person to be prosecuted under Section 701.1 or (ii) institute any appropriate action to abate such building as a public nuisance.

701.3 Failure to Commence Work. Whenever the required repair or demolition is not commenced within 30 days after any final notice and order issued under this code becomes effective:

1. The building official shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

DANGEROUS BUILDING
DO NOT OCCUPY

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
..... of

2. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official have been completed and a certificate of occupancy issued pursuant to the provisions of the Building Code.

3. The building official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and or-

der required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot, shall be paid over to the person or persons lawfully entitled thereto.

SECTION 702 — EXTENSION OF TIME TO PERFORM WORK

Upon receipt of an application from the person required to conform to the order and by agreement of such person to comply with the order if allowed additional time, the building official may grant an extension of time, not to exceed an additional 120 days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The building official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect the time to appeal the notice and order.

SECTION 703 — INTERFERENCE WITH REPAIR OR DEMOLITION WORK PROHIBITED

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of this jurisdiction or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

Chapter 8

PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

SECTION 801 — GENERAL

801.1 Procedure. When any work of repair or demolition is to be done pursuant to Section 701.3, Item 3, of this code, the building official shall issue an order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or the director may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

801.2 Costs. The cost of such work shall be paid from the repair and demolition fund, and may be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

SECTION 802 — REPAIR AND DEMOLITION FUND

802.1 General. The legislative body of this jurisdiction shall establish a special revolving fund to be designated as the repair and demolition fund. Payments shall be made out of said fund upon the demand of the director of public works to defray the costs and expenses which may be incurred by this jurisdiction in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.

802.2 Maintenance of Fund. The legislative body may at any time transfer to the repair and demolition fund, out of any money in the general fund of this jurisdiction, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the repair and demolition fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for shall be paid to the treasurer of this jurisdiction who shall credit the same to the repair and demolition fund.

Chapter 9

RECOVERY OF COST OF REPAIR OR DEMOLITION

SECTION 901 — ACCOUNT OF EXPENSE, FILING OF REPORT

The director of public works shall keep an itemized account of the expense incurred by this jurisdiction in the repair or demolition of any building done pursuant to the provisions of Section 701.3, Item 3, of this code. Upon the completion of the work of repair or demolition, said director shall prepare and file with the clerk of this jurisdiction a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 401.3.

SECTION 902 — NOTICE OF HEARING

Upon receipt of said report, the clerk of this jurisdiction shall present it to the legislative body of this jurisdiction for consideration. The legislative body of this jurisdiction shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of this jurisdiction shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as the owner's name and address appears on the last equalized assessment roll of the county, if such so appears, or as known to the clerk. Such notice shall be given at least 10 days prior to the date set for the hearing and shall specify the day, hour and place when the legislative body will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

SECTION 903 — PROTESTS AND OBJECTIONS

Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of this jurisdiction at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of this jurisdiction shall endorse on every such protest or objection the date of receipt. The clerk shall present such protests or objections to the legislative body of this jurisdiction at the time set for the hearing, and no other protests or objections shall be considered.

SECTION 904 — HEARING OF PROTESTS

Upon the day and hour fixed for the hearing, the legislative body of this jurisdiction shall hear and pass upon the report of the director together with any such objections or protests. The legislative body may make such revision, correction or modification in the report or the charge as it may deem just; and when the legislative body is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the legislative body of this jurisdiction on the report and the charge, and on all protests or objections, shall be final and conclusive.

SECTION 905 — PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

905.1 General. The legislative body of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.

905.2 Personal Obligation. If the legislative body of this jurisdiction orders that the charge shall be a personal obligation of the property owner, it shall direct the attorney for this jurisdiction to collect the same on behalf of this jurisdiction by use of all appropriate legal remedies.

905.3 Special Assessment. If the legislative body of this jurisdiction orders that the charge shall be assessed against the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

SECTION 906 — CONTEST

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within 30 days after the entry of such judgment.

SECTION 907 — AUTHORITY FOR INSTALLMENT PAYMENT OF ASSESSMENTS WITH INTEREST

The legislative body of this jurisdiction, in its discretion, may determine that assessments in amounts of \$500.00 or more shall be payable in not to exceed five equal annual installments. The legislative body's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

SECTION 908 — LIEN OF ASSESSMENT

908.1 Priority. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state, county and property taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

908.2 Interest. All such assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 7 percent per annum from and after said date.

SECTION 909 — REPORT TO ASSESSOR AND TAX COLLECTOR: ADDITION OF ASSESSMENT TO TAX BILL

After confirmation of the report, certified copies of the assessment shall be given to the assessor and the tax collector for this

jurisdiction, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.

SECTION 910 — FILING COPY OF REPORT WITH COUNTY AUDITOR

If the county assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.

SECTION 911 — COLLECTION OF ASSESSMENT: PENALTIES FOR FORECLOSURE

The amount of the assessment shall be collected at the same time and in the same manner as ordinary property taxes are collected

and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

If the legislative body of this jurisdiction has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary property taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary property taxes.

SECTION 912 — REPAYMENT OF REPAIR AND DEMOLITION FUND

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the treasurer of this jurisdiction, who shall credit the same to the repair and demolition fund.

LAW OFFICES

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
United States Tax Court.
Master of Law in Taxation

FRANK A. WEISER

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

January 19, 2023

Refer To File No.

CITY CLERK'S OFFICE
RCVD JAN 19 '23 2:57

BY PERSONAL DELIVERY
AND E-MAIL

Sheila Mautz
City of Ontario
City Hall
303 East B Street
Ontario, CA 91764
E-Mail: smautz@ontarioca.gov

Re: Supplemental Appeal Hearing Brief Re: 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 Ms. Mautz:

As you know, 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") and the on-site Managers Bharat Patel and Jaya Patel. I am submitting the following supplemental brief for the upcoming appeal hearing before the City Building Appeals Board that was originally scheduled for today's date, January 19, 2023, but was unilaterally cancelled last night by the City due to what I understand is Building Official James J. Caro's unavailability as a result of his taking ill. The appeal hearing is to be rescheduled.

Sheila Mautz
City of Ontario
City Hall
303 East B Street
Ontario, CA 91764
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Re: Supplemental Appeal Hearing Brief Re: Inspection
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January 19, 2023
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(By Personal Delivery and E-Mail)

I understand that the following individuals will be sitting as appeal board hearing officers in this matter: James J. Caro, Matt Monteith, and Nicolo De Guzman. These individuals who are personally involved in the claimed unconstitutional closure of the motel are disqualified and cannot sit as adjudicators in the appeal.

Well established law in this 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 this 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 333.¹

While "[i]n attempting to make out a claim of unconstitutional bias, plaintiff must 'overcome a presumption of honesty and integrity' on the part of decision-makers", he can do so by showing that one or more council members "'prejudged or reasonably appears to have prejudged, an issue.'" Stivers, 71 F.3d at 741. (citations omitted). In this circuit, a showing that only one member of the administrative tribunal was actually biased, or where circumstances create the appearance that one member is biased, vitiate the proceedings as a whole. Stivers, 71 F.3d at 746-748. And the issue of bias is not necessarily waived by failing to seek recusal of the biased administrative member if no state or local law exists providing a mechanism for recusal. Stivers, 71 F.3d at 748.

¹ And "the requirement that proceedings which adjudicate individuals interests in life, liberty, or property be free from bias and partiality has been 'jealously guarded'." Clements, 69 F.3d at 333 (quoting Marshall v. Jerrico, 446 U.S. 238, 241-42 (1980)).

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And for procedural due process analysis, it does not matter what the substantive outcome of the hearing is since the procedural guarantees of the Due Process Clause are "absolute", and are not dependent on the merits of the claim. Clements, 69 F.3d at 333-334 (quoting Carey v. Piphus, 435 U.S. 247, 266-67 (1978) (Carey holds that even if the plaintiff has no substantive case, a claim for nominal damages still can be prosecuted for the violation of the procedural due process right); see also Peralta v. Heights Medical Center, Inc., 485 U.S. 80 (1988) (appellant was entitled to have judgment set aside on grounds of violation of procedural due process even though he admitted he did not have a meritorious defense to the substance of the claim).²³

**1. Under the law of the Ninth Circuit the combination
of investigative and adjudicative functions
in one person created an unconstitutional risk
of bias in the administrative process**

The Ninth Circuit's holding in Walker v. City of Berkeley, 951 F.2d 182 (9th Cir. 1991), and previous circuit precedent cited therein, makes clear that while due process can permit the same administrative body to investigate and adjudicate a case, due process does not permit a

² In fact, this circuit has extended Carey's holding to constitutional violations other than procedural due process. See George v. City of Long Beach, 973 F.2d 706, 708 (9th Cir. 1992) ("In this circuit, nominal damages must be awarded if plaintiff proves a violation of his[or her] constitutional rights.") The trier of fact must award nominal damages to the plaintiff "as a symbolic vindication of her constitutional right." Floyd v. Laws, 929 F.2d 1390, 1403 (9th Cir. 1991).

³ Nor is there any reason to deny a procedural due process claim because the effect of the deprivation is only of temporary character. Temporary deprivations of protected property interests also implicate the procedural and substantive guarantees of the Due Process Clause. See First English Evangelical Lutheran Church v. Los Angeles City, 482 U.S. 304 (1987).

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decisionmaker to do both. Id. at 185 ("Due process can permit the same administrative body to investigate and adjudicate a case. The Withrow Court noted, however, that in that case, different persons had performed the investigative and decisionmaking functions.") (citation omitted). The logic as explained in Walker and in the cases relied upon is that in being allowed to perform both functions, the risk of acting as an advocate in the case becomes unconstitutionally impermissible. See American Gen. Ins. Co. v. Federal Trade Com'n, 589 F.2d 462 (9th Cir. 1979) (cited with approval by Walker) ("That the judge's or quasi-judicial officer's participation in the case as counsel may have been superficial rather than substantial does not affect the applicability of the principle.") Id. at 464.

Walker explicitly followed the reasoning of American Gen. in applying an automatic disqualification rule because of the violation of the dual role in the investigative and decisionmaking functions. Walker, 951 F.2d at 185.

In the case at bar, the above individuals were primarily involved in the closure of the motel and subsequent plan check process. This creates "an unacceptable probability of actual bias on the part of those who have actual decision making power over their claims." U.S. v. State of Oregon, 44 F.3d 758, 772 (9th Cir. 1994).

Adjudicating a matter in which her husband testified would also create an appearance of partiality that violates due process, even without any showing of actual bias. See Gibson v. Berryhill, 411 U.S. 564, 578 (1973); see also Exxon Corp. v. Heinze, 32 F.3d 1399, 1403 (9th Cir. 1994) ("the Constitution is concerned not only with actual bias but also with 'the appearance of justice'"). Add to this fact that she participated in the investigation with her husband raises the appearance of partiality to an unconstitutionally intolerable level of an appearance of partiality.

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2. The embroilment in a running controversy over the closure and reopening of the motel also disqualifies the board members

In Taylor v. Hayes, 418 U.S. 488, 501-02 (1974), the Supreme Court held that it violated the Due Process Clause for a judge who had "become embroiled in a running controversy" throughout the trial to preside over contempt proceedings based on that conduct. The Court reached the same conclusion in Mayberry v. Pennsylvania, 400 U.S. 455 (1971). There the Court noted that "a judge, vilified as was this judge, necessarily becomes embroiled in a running, bitter controversy. No one so cruelly slandered is likely to maintain that calm detachment necessary for fair adjudication." Id. at 465; see also Stivers, 71 F.3d at 744 (citing with approval Bakalis v. Golembeski, 35 F.3d 318, 326 (7th Cir 1994) ("running controversy between the plaintiff and the board showed the board had prejudged the issue").

My clients are contending that the above mentioned individuals have unduly and unconstitutionally delayed the permitting process that would allow the motel to reopen.

3. The appeal hearing process has been unduly and unconstitutionally delayed

The essential constitutional principle of the procedural due process line of cases that includes Barry v Barchi, 443 U.S. 55, 64 (1979) and FDIC v Mallen, 486 U.S. 320, 240 (1988) is that the government must offer a person threatened with deprivation of important rights a **prompt** opportunity to present evidence and argument to prevent, or at least reverse, the deprivation.

This appeal hearing has been unduly and unconstitutionally delayed the City.

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Notwithstanding the fact that when the appeal hearing was scheduled for December 8, 2002, months after the closure of the motel, and on the day the City knew that Mr. Solanki was leaving for India on family business, and then the City would not accommodate my clients for a hearing prior to his leaving; we now learn at approximately 5:40 p.m. yesterday, January 18, 2023, less than 24 hours before the January 19th rescheduled hearing, that Mr. Caro took ill and that the hearing was cancelled.

The short notice is totally unacceptable. Mr. Solanki left India earlier than originally planned because of the scheduled January 19th hearing date. He had additional family rites for his late father and the opening of a new temple in India that he missed and has now been unnecessarily delayed. He also has lost a considerable amount of money because he must reimburse his contractor Vijay Patel, who resides in San Francisco, and had already traveled to Southern California to appear at the hearing. The time lost by other parties who had scheduled to appear is also significant. His damages, not including non-economic damages, from this cancellation last night, is well over \$8,000.00, notwithstanding his other damages prior to this, which he expects the City to reimburse him.

These are just a few of the violations of my clients' right, and the City's actions violate their rights under the First Amendment Petition Clause, Fifth Amendment Takings Clause, and the Fourteenth Amendment's Due Process and Equal Protection Clauses.

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I have no doubt that this most recent delay confirms the unconstitutional policy, custom, and practice in the inspection, closure, and numerous post-closure delays of the appeal process and the approval of my client's plans to reopen. 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 or at (213) 399-7806

Sincerely,



Frank A. Weiser

Attorney at Law

cc: Kalpesh Solanki

Charisse Smith, Esq. (By E-Mail at charisse.smith@bbklaw.com)

FAW:aw

CITY OF ONTARIO

Agenda Report
November 1, 2022

SECTION:
CONSENT CALENDAR

Department: Development Administration
Prepared By: Scott Murphy
Staff Member Presenting:
Scott Murphy, Executive Director Community
Development
Approved By: 

Submitted To: Council/OHA
Approved: 11/01/2022
Continued To: _____
Denied: _____
Item No: 8

SUBJECT: APPOINTMENT OF MEMBERS TO THE BUILDING APPEALS BOARD

RECOMMENDATION: That the City Council approve the appointment of members to the City's Building Appeals Board.

THE FOLLOWING COUNCIL GOALS ARE BEING ACHIEVED:

Maintain the Current High Level of Public Safety

Operate in a Businesslike Manner

FISCAL IMPACT: There is not a direct fiscal impact associated with this action.

BACKGROUND & ANALYSIS: The California Building Code ("CBC") requires the creation of a board of appeals to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to application and interpretation of the CBC. While the Board meets infrequently, there are instances that require convening of the Board to hear appeals of the Building Official's applications/interpretations/determinations. Section 113 of the CBC states that "the board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction." The CBC does not specify the number of members required for the Board. Typically, such boards should be odd numbers, such as three or five members, to review an appeal.

In November 2019, the City Council adopted its Ordinance No. 3148, establishing a five-member Building Appeals Board to be comprised of members recommended by the City Manager and approved by the City Council. The membership was previously approved by the City Council, but several members could not be reached to serve on the Board and the remaining members have indicated their desire to no longer serve in that capacity. As a result, an insufficient amount of members are available to constitute a quorum and conduct meetings. Therefore, the City Manager is recommending that the following members be appointed to the Building Appeals Board:

- 1) Building Official from the City of Montclair;
- 2) Building Official from the City of Fontana;
- 3) Building Official from the City of San Dimas;

- 4) Tom Donahue, a local construction consultant; and
- 5) Doug Andreasen, a local architect.

CLIENT REQUEST

Consult and liaise between management of Best Ontario Inn and the City of Ontario officials during the service of an Ontario Municipal Code search warrant at the property located 1045 W. Mission Blvd, Ontario CA 91762.

IDENTIFICATION | BACKGROUND

Warrant No. MISC 223360

Date Filed: July 13, 2022

Date Executed: July 15, 2022

SUMMARY

Warrant No. MISC 223360

Officials Present:

Ofc. Pena - Inland Valley Humane Society

Sgt. Arana - Ontario Police Department

Bonilla 80277 - Ontario Police Department

T. Cho 20040 - Ontario Police Department

Medina 80533 - Ontario Police Department

Guerrero 20070 - Ontario Police Department

James Caro – Building Department Official

Matt Monteith – Building Inspector

Donnie Flores – Sr. Community Improvement Officer

Denny Chen – Community Improvement Officer

Jack Flores – Sr. Community Improvement Officer

Rod Lee – Community Improvement Officer

Address: 1045 W. Mission Blvd, Ontario CA 91762.

Best Ontario Inn Representatives:

Peter Canaan (Self) – Director of Security

Myra Valenzuela – General Manager

Bharat Patel – Best Ontario Inn Manager

NARRATIVE

I was asked by property owner Kalpesh Solanki to Liaise with Ontario Officials while they executed an OMC search warrant. I arrived on site 1045 W. Mission Blvd at 0820 and promptly briefed staff on what to expect and how to conduct themselves. City Officials arrived on-site at 0842. Myra and Myself both asked for business cards from each official before beginning the property inspection. In conversation with Sgt. Arana he stated the Police presence was to ensure compliance by any guests in the hotel. At 0935 I observed a building inspector exit room 106 then approach one of the Peace Officers and exchange words quietly and briefly. Immediately after this exchange the peace officer entered room 106 for what I estimate being 30 to 60 seconds. The Officer then exited 106 and continued about shadowing the inspectors. I entered 106 immediately after and did not see anything that would justify a law enforcement concern. This event was of particular curiosity to me as Sgt, Arana had already stated law enforcement was onsite to mitigate any safety or compliance issues regarding the Inspectors executing the warrant and room 106 was vacant at the time. At 1034 I observed all the law enforcement leave the property. No explanation for their departure was given. At 1052 I was asked by Supervising Building Inspector Matt Monteith to close and lock the pool gate as it was being tagged for closure due to the gate not being in compliance, specifically the lack of an auto closing feature. At 1056 the inspectors entered the final room and the Humane Society departed. At 1100 I observed more yellow closure tags being placed on rooms, I approached Building Inspector James Caro and inquired if I could be read in on the current status. James informed me he had reports from the inspectors at each room suffered violations ranging from smoke detectors to unpermitted modifications. He volunteered to do a personal "double" check of each unit before making any decisions and began inspecting rooms at that time. During this second round of room checks, at 1140, James Caro told me that roughly a month prior, following the water leak He was on-site and met "a contractor" working on the affected rooms. During this meeting, the contractor reportedly stated he was remodeling all the rooms and did not have permits. At 1145 the manager, in fear he would lose his residency if the entire building was deemed unfit on account of the electrical issues agreed to allow Senior Community Improvement Officer Donnie Flores into his residence. The two of them privately did an inspection of the dwelling at that time. At 1155 the Inspection was complete, and I spoke with the city officials and asked questions regarding the next course of action until their departure at 1210. All officials maintained a polite and professional demeanor during the service, and Donnie

Flores on numerous occasions invited the owner to contact him directly but was adamant that if the owner insisted on going through his attorney, than Donnie would be forced to go through the city attorney.

RECOMMENDATIONS

Pull CCTV footage from 0800 to 2000hrs and store offsite.



Kalpesh Solanki <kalpesh1027@gmail.com>

Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762

Kalpesh Solanki <kalpesh1027@gmail.com>
To: mmonteith@ontarioca.gov, jcaro@ontarioca.gov
Bcc: kalpesh1027@gmail.com

Fri, Jul 15, 2022 at 3:09 PM

Mr Caro

Please call me at 310.283.8341 when you get a chance.

I want to remember you the electrical panel issues at

Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762

Mr Monteith asked me to email you

Kal Solanki

CLIENT REQUEST

Consult and liaise between management of Best Ontario Inn and the City of Ontario officials during the service of an Ontario Municipal Code search warrant at the property located 1045 W. Mission Blvd, Ontario CA 91762.

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Bonilla 80277 - Ontario Police Department

T. Cho 20040 - Ontario Police Department

Medina 80533 - Ontario Police Department

Guerrero 20070 - Ontario Police Department

James Caro – Building Department Official

Matt Monteith – Building Inspector

Donnie Flores – Sr. Community Improvement Officer

Denny Chen – Community Improvement Officer

Jack Flores – Sr. Community Improvement Officer

Rod Lee – Community Improvement Officer

Address: 1045 W. Mission Blvd, Ontario CA 91762.

Best Ontario Inn Representatives:

Peter Canaan (Self) – Director of Security

Myra Valenzuela – General Manager

Bharat Patel – Best Ontario Inn Manager

NARRATIVE

I was asked by property owner Kalpesh Solanki to Liaise with Ontario Officials while they executed an OMC search warrant. I arrived on site 1045 W. Mission Blvd at 0820 and promptly briefed staff on what to expect and how to conduct themselves. City Officials arrived on-site at 0842. Myra and Myself both asked for business cards from each official before beginning the property inspection. In conversation with Sgt. Arana he stated the Police presence was to ensure compliance by any guests in the hotel. At 0935 I observed a building inspector exit room 106 then approach one of the Peace Officers and exchange words quietly and briefly. Immediately after this exchange the peace officer entered room 106 for what I estimate being 30 to 60 seconds. The Officer then exited 106 and continued about shadowing the inspectors. I entered 106 immediately after and did not see anything that would justify a law enforcement concern. This event was of particular curiosity to me as Sgt. Arana had already stated law enforcement was onsite to mitigate any safety or compliance issues regarding the Inspectors executing the warrant and room 106 was vacant at the time. At 1034 I observed all the law enforcement leave the property. No explanation for their departure was given. At 1052 I was asked by Supervising Building Inspector Matt Monteith to close and lock the pool gate as it was being tagged for closure due to the gate not being in compliance, specifically the lack of an auto closing feature. At 1056 the inspectors entered the final room and the Humane Society departed. At 1100 I observed more yellow closure tags being placed on rooms, I approached Building Inspector James Caro and inquired if I could be read in on the current status. James informed me he had reports from the inspectors at each room suffered violations ranging from smoke detectors to unpermitted modifications. He volunteered to do a personal "double" check of each unit before making any decisions and began inspecting rooms at that time. During this second round of room checks, at 1140, James Caro told me that roughly a month prior, following the water leak He was on-site and met "a contractor" working on the affected rooms. During this meeting, the contractor reportedly stated he was remodeling all the rooms and did not have permits. At 1145 the manager, in fear he would lose his residency if the entire building was deemed unfit on account of the electrical issues agreed to allow Senior Community Improvement Officer Donnie Flores into his residence. The two of them privately did an inspection of the dwelling at that time. At 1155 the Inspection was complete, and I spoke with the city officials and asked questions regarding the next course of action until their departure at 1210. All officials maintained a polite and professional demeanor during the service, and Donnie

Flores on numerous occasions invited the owner to contact him directly but was adamant that if the owner insisted on going through his attorney, than Donnie would be forced to go through the city attorney.

RECOMMENDATIONS

Pull CCTV footage from 0800 to 2000hrs and store offsite.

1/23/23, 10:10 AM

Gmail - Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762



Kalpesh Solanki <kalpesh1027@gmail.com>

Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762

Fri, Jul 15, 2022 at 3:09 PM

Kalpesh Solanki <kalpesh1027@gmail.com>
To: mmonteith@ontarioca.gov, jcaro@ontarioca.gov
Bcc: kalpesh1027@gmail.com

Mr Caro

Please call me at 310.283.8341 when you get a chance.

I want to remember you the electrical panel issues at
Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762

Mr Monteith asked me to email you

Kal Solanki

1/23/23, 10:12 AM

Gmail - Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762



Kalpesh Solanki <kalpesh1027@gmail.com>

Best Ontario Inn 1045 W Mission Blvd Ontario CA 91762

Donald E. Flores <DFlores@ontarioca.gov>
To: Kalpesh Solanki <kalpesh1027@gmail.com>

Mon, Jul 25, 2022 at 8:05 AM

Hello Mr. Solanki,
It was my understanding a meeting has been scheduled for today, Monday 7/25/2022 @ 11 a.m.
Meeting would involve not only myself, but also James Caro, city attorney(s), yourself and your attorney.

Donnie Flores
Senior Community Improvement Officer
City of Ontario / Community Improvement Department
208 West Emporia Street
Ontario Ca, 91762
Office 909 395-2007
Direct 909 395-2520
dflores@ontarioca.gov
[Quoted text hidden]



Kalpesh Solanki <kalpesh1027@gmail.com>

1045 W. MISSION BLVD (MOTEL)

6 messages

benjamin ionescu <bciengineering@sbcglobal.net> Thu, Aug 4, 2022 at 3:33 PM
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>
To: DFLORES@ontarioca.gov, "JCARO@ONTARIOCA.GOV" <JCARO@ontarioca.gov>, Kalpesh Solanki <kalpesh1027@gmail.com>, "NDEGURMAN@ONTARIOCA.GOV" <NDEGURMAN@ontarioca.gov>, Greg Weist <gregg@premierrestoration.org>

Mr. Caro,

We have tried to submit plans for the electrical modifications in the manager's unit at the subject property so they can continue to stay on the premise while we continue to prepare the plans for the rest of the building.

The owner made an attempt to submit these plans for unit 100 and was rejected.

We ask that you allow the submittal of this unit to be separate so we do not have to relocate the manages of the building.

The plan checker, Mr Degurman is telling me that you have rejected our submittal today and that you want us to include all the units on one submittal.

I presented to you this option of hadling the manager's unit separately during our field meeting and you were opened to the posibility of us handling this matter in this way.

Please let me know.

Thank you

Ben Ionescu, P.E.
BCI Engineering

15375 Barranca Pkwy
Suite B-205
Irvine, Ca 92618
(714) 267-6561 Cell
(951) 934-5444 Fax

Kalpesh Solanki <kalpesh1027@gmail.com>
To: Frank Weiser <maimons@aol.com>
Bcc: kalpesh1027@gmail.com, di_patel@hotmail.com

Thu, Aug 4, 2022 at 3:45 PM

Kal Solanki

Begin forwarded message:

1/23/23, 10:21 AM

Gmail - 1045 W. MISSION BLVD (MOTEL)

From: benjamin ionescu <bciengineering@sbcglobal.net>
Date: August 4, 2022 at 3:33:47 PM PDT
To: DFlores@ontarioca.gov, jcaro@ontarioca.gov, Kalpesh Solanki <kalpesh1027@gmail.com>, NDEGURMAN@ontarioca.gov, Greg Weist <gregg@premierrestoration.org>
Subject: 1045 W. MISSION BLVD (MOTEL)
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>

[Quoted text hidden]

James J. Caro <JCaro@ontarioca.gov>

Fri, Aug 5, 2022 at 12:30 PM

To: benjamin ionescu <bciengineering@sbcglobal.net>, "Donald E. Flores" <DFlores@ontarioca.gov>, Kalpesh Solanki <kalpesh1027@gmail.com>, Greg Weist <gregg@premierrestoration.org>
Cc: Nicolo De Guzman <NDeGuzman@ontarioca.gov>

Hello Ben,

I understand that my senior Plan Checker Klaus, (who you were talking to at the counter) called you after you left the city and let you know that I said yes you can submit the plans for the manager's office and dwelling separately to speed it up.

I need to correct the statement about the city being ok with the manager staying. I never said that the Manager can stay. I yellow tagged the unit as uninhabitable do to the unpermitted and unsafe work. I made it very clear to Kal that the manager cannot stay and needs to be relocated.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: benjamin ionescu <bciengineering@sbcglobal.net>
Sent: Thursday, August 4, 2022 3:34 PM
To: Donald E. Flores <DFlores@ontarioca.gov>; James J. Caro <JCaro@ontarioca.gov>; Kalpesh Solanki <kalpesh1027@gmail.com>; NDEGURMAN@ONTARIOCA.GOV; Greg Weist <gregg@premierrestoration.org>
Subject: 1045 W. MISSION BLVD (MOTEL)

Mr. Caro,

1/23/23, 10:21 AM

Gmail - 1045 W. MISSION BLVD (MOTEL)

[Quoted text hidden]

Kalpesh Solanki <kalpesh1027@gmail.com>
To: Frank Weiser <maimons@aol.com>, kalpesh1027@gmail.com

Fri, Aug 5, 2022 at 12:32 PM

Kal Solanki

Begin forwarded message:

From: "James J. Caro" <JCaro@ontarioca.gov>
Date: August 5, 2022 at 12:30:47 PM PDT
To: benjamin ionescu <bciengineering@sbcglobal.net>, "Donald E. Flores" <DFlores@ontarioca.gov>, Kalpesh Solanki <kalpesh1027@gmail.com>, Greg Weist <gregg@premierrestoration.org>
Cc: Nicolo De Guzman <NDeGuzman@ontarioca.gov>
Subject: RE: 1045 W. MISSION BLVD (MOTEL)

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Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



[Quoted text hidden]

benjamin ionescu <bciengineering@sbcglobal.net>
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>

Fri, Aug 5, 2022 at 12:50 PM

1/23/23, 10:21 AM

Gmail - 1045 W. MISSION BLVD (MOTEL)

To: "Donald E. Flores" <dflores@ontarioca.gov>, Kalpesh Solanki <kalpesh1027@gmail.com>, Greg Weist <gregg@premierrestoration.org>, "James J. Caro" <JCaro@ontarioca.gov>
Cc: Nicolo De Guzman <ndeguzman@ontarioca.gov>

James,

I have inspected the manager's unit and from a structural standpoint did not find any unsafe conditions. The layout of the unit is the same as the original design.

There are a few LED lights that were installed without permits and a small subpanel for the low voltage surveillance system. We are working on providing plans for this minor unpermitted work for this unit.

Is there something so grave that the city found with this unit, other than the minor electrical items, that would deem the unit as unsafe and would require the manager's relocation?

Thanks

Ben Ionescu, P.E.
BCI Engineering

15375 Barranca Pkwy
Suite B-205
Irvine, Ca 92618
(714) 267-6561 Cell
(951) 934-5444 Fax

[Quoted text hidden]

Fri, Aug 5, 2022 at 1:51 PM

Kalpesh Solanki <kalpesh1027@gmail.com>
To: dipak patel <di_patel@hotmail.com>
Cc: kalpesh1027@gmail.com

Kal Solanki

Begin forwarded message:

From: benjamin ionescu <bciengineering@sbcglobal.net>
Date: August 5, 2022 at 12:50:09 PM PDT
To: "Donald E. Flores" <DFlores@ontarioca.gov>, Kalpesh Solanki <kalpesh1027@gmail.com>, Greg Weist <gregg@premierrestoration.org>, "James J. Caro" <JCaro@ontarioca.gov>
Cc: Nicolo De Guzman <NDeGuzman@ontarioca.gov>
Subject: Re: 1045 W. MISSION BLVD (MOTEL)
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>

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Thanks

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BCI Engineering

15375 Barranca Pkwy
Suite B-205
Irvine, Ca 92618
(714) 267-6561 Cell
(951) 934-5444 Fax

On Friday, August 5, 2022 at 12:31:01 PM PDT, James J. Caro <jcaro@ontarioca.gov> wrote:

Hello Ben,

I understand that my senior Plan Checker Klaus, (who you were talking to at the counter) called you after you left the city and let you know that I said yes you can submit the plans for the manager's office and dwelling separately to speed it up.

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Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: benjamin ionescu <bciengineering@sbcglobal.net>
Sent: Thursday, August 4, 2022 3:34 PM
To: Donald E. Flores <DFlores@ontarioca.gov>; James J. Caro <JCaro@ontarioca.gov>; Kalpesh Solanki <kalpesh1027@gmail.com>; NDEGURMAN@ONTARIOCA.GOV; Greg Weist <gregg@premierrestoration.org>
Subject: 1045 W. MISSION BLVD (MOTEL)

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The owner made an attempt to submit these plans for unit 100 and was rejected.

We ask that you allow the submittal of this unit to be separate so we do not have to relocate the manages of the building.

The plan checker, Mr Degurman is telling me that you have rejected our submittal today and that you want us to include all the units on one submittal.

I presented to you this option of hadling the manager's unit separately during our field meeting and you were opened to the posibility of us handling this matter in this way.

Please let me know.

Thank you

Ben Ionescu, P.E.
BCI Engineering

15375 Barranca Pkwy

Suite B-205

Irvine, Ca 92618
(714) 267-6561 Cell
(951) 934-5444 Fax

1/23/23, 10:21 AM

Gmail - 1045 W. MISSION BLVD (MOTEL)



image001.png
8K



Kalpesh Solanki <kalpesh1027@gmail.com>

1045 W. MISSION BLVD (MOTEL)

Fri, Aug 5, 2022 at 12:50 PM

benjamin ionescu <bciengineering@sbcglobal.net>
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>
To: "Donald E. Flores" <dflores@ontarioca.gov>, Kalpesh Solanki <kalpesh1027@gmail.com>, Greg Weist <gregg@premierrestoration.org>, "James J. Caro" <JCaro@ontarioca.gov>
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(714) 267-6561 Cell
(951) 934-5444 Fax

[Quoted text hidden]



Kalpesh Solanki <kalpesh1027@gmail.com>

Follow up to meeting on Monday Aug 8, 2022

Kalpesh Solanki <kalpesh1027@gmail.com>
To: Kalpesh Solanki <kalpesh1027@gmail.com>, smurphy@ontarioca.gov

Wed, Aug 10, 2022 at 2:43 PM

Good afternoon

Thank your for your call

Following up on the notes I took :

- 1) Move sub panel on drawing to south wall
- 2) Make kitchen lights fluorescent
- 3) Smoke/Carbon Mono detectors outside each bedroom door
- 4) Single line drawing for sub panel for the wall
Outlets that service the cable boxes
- 5) Exterior conduit shown for low voltage
- 6) Hardwire 2 wall AC units (you will ask Mr Caro)

Thank you sir

Kal Solanki

On Aug 10, 2022, at 7:36 AM, Kalpesh Solanki <kalpesh1027@gmail.com> wrote:

Good Morning Mr Murphy,

I am following up on the meeting we had on Monday August 8, 2022 at your office at 10:00am.

Thank you for taking the time to meet with Mr. Dipak Patel and myself.

Were you able to speak with Mr. Caro in regards to the plans for the manager unit I had submitted with you? The plans were only for the recessed can lights and sub panel. All other electrical and structural was pre-existing.

What is the next step forward?

Please advise to how can I obtain the permit for the manager unit.

Thank you

Kal Solanki

- NASA Director: This could be the worst disaster NASA's ever experienced.
- Gene Kranz: With all due respect, sir, I believe this is gonna be our finest hour.
- Apollo 13



Kalpesh Solanki <kalpesh1027@gmail.com>

Follow up to meeting on Monday Aug 8, 2022

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[Quoted text hidden]



Kalpesh Solanki <kalpesh1027@gmail.com>

Follow up to meeting on Monday Aug 8, 2022

James J. Caro <JCaro@ontarioca.gov>
To: Kalpesh Solanki <kalpesh1027@gmail.com>, Scott Murphy <SMurphy@ontarioca.gov>

Thu, Aug 25, 2022 at 11:47 AM

Hello Kalpesh,

Can you please provide me with your plan check number, so I can look into it.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: Kalpesh Solanki <kalpesh1027@gmail.com>
Sent: Tuesday, August 23, 2022 3:54 PM
To: Scott Murphy <SMurphy@ontarioca.gov>; James J. Caro <JCaro@ontarioca.gov>
Cc: kalpesh1027@gmail.com
Subject: Re: Follow up to meeting on Monday Aug 8, 2022

Mr Murphy and Mr Caro

We submitted the plans with the electrical engineering drawings for permits last Thursday 8/16/22.

I wanted to get a status update on when I can pull permits for the manager unit? From the look of the list below, it seems like we should be able to pull the permit rather soon.

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Thu, Aug 25, 2022 at 11:47 AM

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Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



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Sent: Tuesday, August 23, 2022 3:54 PM

To: Scott Murphy <SMurphy@ontarioca.gov>; James J. Caro <JCaro@ontarioca.gov>

Cc: kalpesh1027@gmail.com

Subject: Re: Follow up to meeting on Monday Aug 8, 2022

Mr Murphy and Mr Caro

[Quoted text hidden]



Kalpesh Solanki <kalpesh1027@gmail.com>

Follow up to meeting on Monday Aug 8, 2022

James J. Caro <JCaro@ontarioca.gov>

To: Kalpesh Solanki <kalpesh1027@gmail.com>, Scott Murphy <SMurphy@ontarioca.gov>

Thu, Aug 25, 2022 at 11:47 AM

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Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: Kalpesh Solanki <kalpesh1027@gmail.com>

Sent: Tuesday, August 23, 2022 3:54 PM

To: Scott Murphy <SMurphy@ontarioca.gov>; James J. Caro <JCaro@ontarioca.gov>

Cc: kalpesh1027@gmail.com

Subject: Re: Follow up to meeting on Monday Aug 8, 2022

Mr Murphy and Mr Caro

[Quoted text hidden]



Kalpesh Solanki <kalpesh1027@gmail.com>

RE: Plan Check Status B202205366

3 messages

Thu, Sep 8, 2022 at 2:48 PM

Rozie Orihuela <ROrihuela@ontarioca.gov>
To: "kalpesh1027@gmail.com" <kalpesh1027@gmail.com>
Cc: "James J. Caro" <JCaro@ontarioca.gov>, Scott Murphy <SMurphy@ontarioca.gov>

Hello Kalpesh,

Here is the plan check status on the permit number above. The plans are due back from review on 9/22/2022. Once we get the plans, I will contact you with status again.

Thank you.

Rozie Orihuela

City of Ontario

Building Department

Permit Technician

ROrihuela@ontarioca.gov

Office: 909-395-2210

Permit status is now available on-line: <https://automation.ontarioca.gov/onlinePermits/>

From: James J. Caro <JCaro@ontarioca.gov>
Sent: Wednesday, September 7, 2022 3:00 PM
To: Rozie Orihuela <ROrihuela@ontarioca.gov>
Subject: FW: Follow up to meeting on Monday Aug 8, 2022

Rozie,

Please follow through with this pc.

Thank you,

1/23/23, 10:28 AM

Gmail - RE: Plan Check Status B202205366

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: Kalpesh Solanki <kalpesh1027@gmail.com>
Sent: Wednesday, September 7, 2022 1:53 PM
To: James J. Caro <JCaro@ontarioca.gov>
Cc: Scott Murphy <SMurphy@ontarioca.gov>; Kalpesh Solanki <kalpesh1027@gmail.com>
Subject: Re: Follow up to meeting on Monday Aug 8, 2022

Mr. Caro,

I am checking in on the status of the plans and anticipated date for permit approvals

Can you please assist me?

I am hoping to pull permits as soon as you allow me to.

Stay Classy . . .

Kal Solanki

"A man with God is always in the majority."
- John Knox's words, inscribed on the Reformation Monument in Geneva

On Fri, Aug 26, 2022 at 1:46 PM James J. Caro <JCaro@ontarioca.gov> wrote:

Hello Kalpesh,

Thank you for sending the plan check number, it was submitted on 8-18, and as I said we are running 4-5 weeks on plan check right now, and we are only at one week. Please keep in mind that this is for a plan check and there may be corrections that your designer will have to correct and resubmit before the plans are approved and you can pull a permit. Please check back in a few weeks.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: Kalpesh Solanki <kalpesh1027@gmail.com>
Sent: Friday, August 26, 2022 7:51 AM
To: James J. Caro <JCaro@ontarioca.gov>
Cc: Scott Murphy <SMurphy@ontarioca.gov>; Kalpesh Solanki <kalpesh1027@gmail.com>
Subject: Re: Follow up to meeting on Monday Aug 8, 2022

Mr Murphy and Mr Caro,

As per your request, I did provide you the plan check number on 8/25/22 at approx 1:14pm

Do you have an update to when i can pull the permit?

Stay Classy . . .

Kal Solanki

"A man with God is always in the majority."
- John Knox's words, inscribed on the Reformation Monument in Geneva

On Thu, Aug 25, 2022 at 1:14 PM Kalpesh Solanki <kalpesh1027@gmail.com> wrote:

Mr Murphy and Mr Caro,

Plan check # : B202205366

Stay Classy . . .

Kal Solanki

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James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



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Cc: kalpesh1027@gmail.com
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- 4) Single line drawing for sub panel for the wall
Outlets that service the cable boxes
- 5) Exterior conduit shown for low voltage
- 6) Hardwire 2 wall AC units (you will ask Mr Caro)

Thank you sir

Kal Solanki

On Aug 10, 2022, at 7:36 AM, Kalpesh Solanki <kalpesh1027@gmail.com> wrote:

Good Morning Mr Murphy,

I am following up on the meeting we had on Monday August 8, 2022 at your office at 10:00am.

Thank you for taking the time to meet with Mr. Dipak Patel and myself.

Were you able to speak with Mr. Caro in regards to the plans for the manager unit I had submitted with you? The plans were only for the recessed can lights and sub panel. All other electrical and structural was pre-existing.

What is the next step forward?

1/23/23, 10:28 AM

Gmail - RE: Plan Check Status B202205366

Please advise to how can I obtain the permit for the manager unit.

Thank you

Kal Solanki

- NASA Director: This could be the worst disaster NASA's ever experienced.
- Gene Kranz: With all due respect, sir, I believe this is gonna be our finest hour.

--- Apollo 13

Kalpesh Solanki <kalpesh1027@gmail.com>
To: Frank Weiser <maimons@aol.com>
Cc: kalpesh1027@gmail.com

Thu, Sep 8, 2022 at 3:04 PM

Kal Solanki

Begin forwarded message:

From: Rozie Orihuela <ROrihuela@ontarioca.gov>
Date: September 8, 2022 at 2:48:29 PM PDT
To: kalpesh1027@gmail.com
Cc: "James J. Caro" <JCaro@ontarioca.gov>, Scott Murphy <SMurphy@ontarioca.gov>
Subject: RE: Plan Check Status B202205366

Hello Kalpesh,

Here is the plan check status on the permit number above. The plans are due back from review on 9/22/2022. Once we get the plans, I will contact you with status again.

Thank you.

Rozie Orihuela

City of Ontario

Building Department

Permit Technician

1/23/23, 10:28 AM

Gmail - RE: Plan Check Status B202205366

ROrihuela@ontarioca.gov

Office: 909-395-2210

Permit status is now available on-line: <https://automation.ontarioca.gov/onlinePermits/>

From: James J. Caro <JCaro@ontarioca.gov>
Sent: Wednesday, September 7, 2022 3:00 PM
To: Rozie Orihuela <ROrihuela@ontarioca.gov>
Subject: FW: Follow up to meeting on Monday Aug 8, 2022

Rozie,

Please follow through with this pc.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: Kalpesh Solanki <kalpesh1027@gmail.com>
Sent: Wednesday, September 7, 2022 1:53 PM
To: James J. Caro <JCaro@ontarioca.gov>
Cc: Scott Murphy <SMurphy@ontarioca.gov>; Kalpesh Solanki <kalpesh1027@gmail.com>
Subject: Re: Follow up to meeting on Monday Aug 8, 2022

Mr. Caro,

I am checking in on the status of the plans and anticipated date for permit approvals

Can you please assist me?

I am hoping to pull permits as soon as you allow me to.

Stay Classy . . .

Kal Solanki

"A man with God is always in the majority."
- John Knox's words, inscribed on the Reformation Monument in Geneva

On Fri, Aug 26, 2022 at 1:46 PM James J. Caro <JCaro@ontarioca.gov> wrote:

Hello Kalpesh,

Thank you for sending the plan check number, it was submitted on 8-18, and as I said we are running 4-5 weeks on plan check right now, and we are only at one week. Please keep in mind that this is for a plan check and there may be corrections that your designer will have to correct and resubmit before the plans are approved and you can pull a permit. Please check back in a few weeks.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



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[Quoted text hidden]

[Quoted text hidden]
[Quoted text hidden]

[Quoted text hidden]
[Quoted text hidden]



[Quoted text hidden]

2 attachments

1/23/23, 10:28 AM

Gmail - RE: Plan Check Status B202205366



image001.png
8K



image001.png
8K

Kalpesh Solanki <kalpesh1027@gmail.com>
To: dipak patel <di_patel@hotmail.com>
Cc: kalpesh1027@gmail.com

Thu, Sep 8, 2022 at 4:44 PM

Kal Solanki

Begin forwarded message:

From: Kalpesh Solanki <kalpesh1027@gmail.com>
Date: September 8, 2022 at 3:04:37 PM PDT
To: Frank Weiser <maimons@aol.com>
Cc: kalpesh1027@gmail.com
Subject: Fwd: Plan Check Status B202205366

[Quoted text hidden]

2 attachments



image001.png
8K



image001.png
8K

LETTER OF TRANSMITTAL

Plan Check No: B202205366	Date: 9/12/2022
Submittal No: 1	Revision No:
Site Address: 1045 West Mission	
Scope of work: Tenant Improvement on Existing Motel	

Reviewed by: Klaus De Guzman	Ph: (909)395-2173, e-mail: ndeguzman@ontarioca.gov
------------------------------	---

Your plans have been routed to the following Departments for review:

<input type="checkbox"/> Planning	Landscape
Engineering	Utilities
Fire	<input type="checkbox"/> Police

Please follow up to the other reviewing Departments directly for status and resubmittal.

ITEMS RETURNED TO APPLICANT:

Submittal:	1 st	2 nd	3 rd	4 th
<input checked="" type="checkbox"/> Plan	<input checked="" type="checkbox"/>			
Structural Calculation	<input type="checkbox"/>			
Truss Calculation				
Energy Calculation				
Soil Report				
Methane Report				
Hydrology Report				
Manufacturer Specifications				
Others				

INSTRUCTIONS:

- ⇒ Building Department plan check correction comments are marked on / attached to this plan. Comments also marked on structural calculation, truss calculation, energy calculation, soil report, methane report, hydrology report, and others _____.
- ⇒ Correct the original drawings to include also the other reviewing Departments correction responses. Reprint and submit **2 sets** of new plans and **2 sets** of new calculations/reports. Return this sheet with the corrected plans.
- ⇒ Return previous marked-up plans/calculations/reports for recheck.
- ⇒ For each correction, write your response next to it. Resubmittal without responses will not be taken in. Cloud with delta marking all revisions made on the plans.
- ⇒ Itemize any changes, revisions, or additions made to drawings that are not a direct answer to a correction on a separate sheet.
- ⇒ Additional plan check fee is required **after 3rd review** on hourly rate basis (after 2nd review for grading plans).
- ⇒ Revisions and deferred submittal will be assessed on hourly rate basis.
- ⇒ Plan check expiration date is 1 year from first submittal date.

CORRECTION LIST (2019 California Codes)

Plan Check No. B202205366	Review No:	Plan Check Expiration Date: 1 year from submittal
Site Address: 1045 West Mission		Number of Story:
Project Description: Tenant Improvement on Existing Motel		Area square feet:
Type of Occupancy:		Wind Speed: $V_{wh} = 95$ mph, exposure C (CBC) $V_{wh} = 110$ mph, exposure C (CRC)
Type of Construction: V-B		Airport Noise Impact Zone (PART 150): YES / NO.
Applicant: Cristina Ionescu		Phone/Email: cristinaionescu4@gmail.com
Owner: Solanki Kalpeshp		Phone/Email: 714 267 6561
Engineer/Architec/Designer: Ben Ionescu		Phone/Email:
Reviewed by: Klaus De Guzman	Date: 9/12/2022	Ph: (909)395-2173 , e-mail: ndeguzman@ontarioca.gov

INSTRUCTIONS:

- ⇒ Numbers in brackets refer to code sections of 2019 California Building Code [CBC], 2019 California Residential Code [CRC], 2019 California Plumbing Code [CPC], and 2019 California Green Buildings Standards Code [CalGreen].
- ⇒ Correct original drawings. Reprint and submit 2 new sets plan and 2 sets of calculations/reports together with the “marked-up” set. Return this corrections list with corrected plans.
- ⇒ In the Respond column, please indicate the sheet number and detail or note number on the plan where the corrections are made. Cloud with Delta marking all revisions made on the plans.
- ⇒ Itemize any changes, revisions, or additions made to drawings that are not a direct answer to a correction on a separate sheet.
- ⇒ Additional plan check fee will be required after 2nd review on hourly rate basis for grading.

1. As per conversation with Mr. Caro and Mr. Monteith on 8/22/2022, there were other items that needs to be addressed on the plans. These includes but not limited to Balcony structural repair/remodel, unsafe balcony exits stairs, non-compliance pool enclosure, Cabinets, etc. Please provide complete construction document for complete plan review. Mentioned items were not included on the plan.
2. As per scope of work and items mentioned above, it seems that this need to comply with accessibility requirements as per section 11B-202 of 2019 CBC. Please provide complete construction detailing of the followings. (If this comment does not apply, please provide a response for its reason or code exception.)
 - a) Provide accessible parking space analysis as required by section 11B-208 of 2019 CBC.
 - b) Provide complete accessible parking space detailing with dimensions and signs.
 - c) Provide detailing and show accessible path of travel from building main entrance to asked accessible parking space and public way. Please call out both slopes and cross

slope on the accessible path of travel. Any accessible ramps or curb ramp must be detailed on the plans.

- d) Unit 100 which per my understanding also serve as manager's residence and office. Please provide complete accessibility detailing including bathrooms. Check also doors as some of the strike side clearances are not compliant.
- e) Please provide analysis of guestroom with mobility as per table 11B-224.2 and guestroom with communication features as per 11B-224.4 of 2019 CBC. Show locations of these rooms and must apply to each type of rooms. Please provide complete detailing as required by 11B-224 of 2019 CBC.

Note: If not all requirements of accessibility will be met due to project valuation, please fill out unreasonable hardship form (can be downloaded at ontarioca.gov under Building department forms) and copy it on to the plans for review.

3. Indicate R-1 on occupancy classification shown on Building Summary.
4. Please provide detailing of balcony repair as per call out on sheet A-1 and reference section on sheet A-3. Please clarify if there are floor joists to be replaced or repaired.
5. Section call outs must be referenced to sheet A-3 instead of A-2.
6. Please show and clarify egress on 2nd level as shown on sheet A-2. Where is the exit and exit access? Show the stairs that leads to the first level. (This is also needed as per comment item 7 below)
7. Most windows on 2nd level will be changed facing exit balcony. Please clarify if this are protected opening as required by section 1021 of 2019 CBC. Identify protected ratings of new windows and wall section facing balcony per A/A-3 must be rated wall (If it is a protected wall). Please provide clarification on this.
8. Please revise call out 4/D-1 to 4/A-1 as shown on sheet A-3.
9. Legend item 4 calls for 5/8 type X drywall or gyp board. This call out is keyed in on 4/A-1 which calls for plaster. Please correlate both call outs.
10. Please show energy compliance on all new replaced lights. Submit Energy Lighting Forms (LTG) and copy it on to the plans.
11. Provide light schedule on all new light. Identify if these are recessed lights or surface mounted lights. If these are recessed lights, provide specification to show that these are approved fire rated light fixtures or provide detailing of rated light well (Because it goes to rated horizontal assemblies).
12. Provide a note on electrical plans that all new or to be legalized electrical equipment must be tested and listed by a recognized testing agency.
13. Panel AA must be marked new or As-built to be legalized as stated on scope of work per sheet E1.0.
14. Per single line diagram, panel AA AIC rating is only 10K. Per EDISON table 1-5 short circuit current is 42K. Please justify panel AA.
15. Please provide detailing of electrical conduit penetration thru rated walls and floor assemblies.

16. As per power plan layout shown on sheets E-2.1 and E-2.2, all electrical conductors are new. Please identify circuit number and upstream electrical panel. Show this panel on the single line diagram and provide panel schedule for review.



Kalpesh Solanki <kalpesh1027@gmail.com>

1045 W. Mission Blvd (B202205366)

Kalpesh Solanki <kalpesh1027@gmail.com>
To: ndeguzman@ontarioca.gov, kalpesh1027@gmail.com

Thu, Oct 13, 2022 at 3:17 PM

Mr De Guzman,

Please call me at 310.283.8341 when you get a chance.

You said you were speaking it Mr Caro on 10/6/22 in regards to permit.

It's been over a week

Kal Solanki

Begin forwarded message:

From: benjamin ionescu <bciengineering@sbcglobal.net>
Date: October 5, 2022 at 5:08:32 PM PDT
To: ndeguzman@ontarioca.gov, Kalpesh Solanki <kalpesh1027@gmail.com>
Subject: 1045 W. Mission Blvd (B202205366)
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>

Mr. Guzman,

I am checking on plan check status for this project.
Please let us know as the owner is inquiring.

Thank you,

Ben Ionescu, P.E.
BCI Engineering

15375 Barranca Pkwy
Suite B-205
Irvine, Ca 92618
(714) 267-6561 Cell
(951) 934-5444 Fax



Kalpesh Solanki <kalpesh1027@gmail.com>

1045 W. Mission Blvd (B202205366)

James J. Caro <JCaro@ontarioca.gov>

Mon, Oct 17, 2022 at 11:51 AM

To: Kalpesh Solanki <kalpesh1027@gmail.com>, Scott Ochoa <SOchoa@ontarioca.gov>, Scott Murphy <SMurphy@ontarioca.gov>

Hello Mr. Solanki,

We will get the 2nd plan check finished this week and we will reach out to you at that time.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



From: Kalpesh Solanki <kalpesh1027@gmail.com>

Sent: Monday, October 17, 2022 11:26 AM

To: Kalpesh Solanki <kalpesh1027@gmail.com>; Scott Ochoa <SOchoa@ontarioca.gov>; James J. Caro <JCaro@ontarioca.gov>; Scott Murphy <SMurphy@ontarioca.gov>; kalpesh1027@gmail.com

Subject: Re: 1045 W. Mission Blvd (B202205366)

Mr Caro

May I get an update to this email?

Kal Solanki

On Oct 14, 2022, at 8:11 AM, Kalpesh Solanki <kalpesh1027@gmail.com> wrote:

Mr Caro

When can we get an update so we can pull the permit?

Stay Classy . . .

Kal Solanki

“A man with God is always in the majority.”
- John Knox's words, inscribed on the Reformation Monument in Geneva

----- Forwarded message -----

From: **Nicolo De Guzman** <NDeGuzman@ontarioca.gov>
Date: Thu, Oct 13, 2022 at 4:01 PM
Subject: RE: [1045 W. Mission Blvd](#) (B202205366)
To: Kalpesh Solanki <kalpesh1027@gmail.com>
Cc: James J. Caro <JCaro@ontarioca.gov>

Hi Kal,

I finished my plan review and gave the plans to James last Thursday for his review. Once everything is O.K. with him, I will send you the correction list.

Thank You

Nicolo Klaus De Guzman
Senior Plan Check Engineer
City of Ontario Building Department
909-395-2173

From: Kalpesh Solanki <kalpesh1027@gmail.com>
Sent: Thursday, October 13, 2022 3:18 PM
To: Nicolo De Guzman <NDeGuzman@ontarioca.gov>; kalpesh1027@gmail.com
Subject: Fwd: [1045 W. Mission Blvd](#) (B202205366)

Mr De Guzman,

Please call me at 310.283.8341 when you get a chance.

You said you were speaking it Mr Caro on 10/6/22 in regards to permit.

It's been over a week

Kal Solanki

Begin forwarded message:

From: benjamin ionescu <bciengineering@sbcglobal.net>
Date: October 5, 2022 at 5:08:32 PM PDT
To: ndeguzman@ontarioca.gov, Kalpesh Solanki <kalpesh1027@gmail.com>
Subject: **1045 W. Mission Blvd (B202205366)**
Reply-To: benjamin ionescu <bciengineering@sbcglobal.net>

Mr. Guzman,

I am checking on plan check status for this project.

Please let us know as the owner is inquiring.

Thank you,

Ben Ionescu, P.E.

BCI Engineering

[15375 Barranca Pkwy](#)

[Suite B-205](#)

Irvine, Ca 92618

(714) 267-6561 Cell

(951) 934-5444 Fax



Kalpesh Solanki <kalpesh1027@gmail.com>

FW: Building - James Caro

1 message

James J. Caro <JCaro@ontarioca.gov>

Thu, Oct 20, 2022 at 7:59 AM

To: Kalpesh Solanki <kalpesh1027@gmail.com>, BCI <bciengineering@sbcglobal.net>, Rudy Zeledon <RZeledon@ontarioca.gov>, Nicolo De Guzman <NDeGuzman@ontarioca.gov>, Matt Monteith <mmonteith@ontarioca.gov>

Ok Gents,

I have conference room 5 set up for 11 am on Monday, and I will send you an invite. I have included Rudy our planning Director, Klaus your plan checker and Matt my supervising Building Inspector who was on the site with me. Please let me know if anyone else will be joining us.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



-----Original Appointment-----

From: Conference Room 5 <conferenceroom5@ontariocagov.onmicrosoft.com>

Sent: Wednesday, October 19, 2022 5:26 PM

To: Conference Room 5; Conference Room 5; James Caro; Kimberly Alvarado

Subject: Building - James Caro

When: Monday, October 24, 2022 11:00 AM-12:00 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Conference Room 5

invite.ics
4K



Kalpesh Solanki <kalpesh1027@gmail.com>

FW: Building - James Caro

James J. Caro <JCaro@ontarioca.gov>

Thu, Oct 20, 2022 at 7:59 AM

To: Kalpesh Solanki <kalpesh1027@gmail.com>, BCI <bciengineering@sbcglobal.net>, Rudy Zeledon <RZeledon@ontarioca.gov>, Nicolo De Guzman <NDeGuzman@ontarioca.gov>, Matt Monteith <mmonteith@ontarioca.gov>

Ok Gents,

I have conference room 5 set up for 11 am on Monday, and I will send you an invite. I have included Rudy our planning Director, Klaus your plan checker and Matt my supervising Building Inspector who was on the site with me. Please let me know if anyone else will be joining us.

Thank you,

James Caro

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172



-----Original Appointment-----

From: Conference Room 5 <conferenceroom5@ontariocagov.onmicrosoft.com>

Sent: Wednesday, October 19, 2022 5:26 PM

To: Conference Room 5; Conference Room 5; James Caro; Kimberly Alvarado

Subject: Building - James Caro

When: Monday, October 24, 2022 11:00 AM-12:00 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Conference Room 5

 invite.ics
4K

1/23/23, 10:35 AM

Gmail - Notification: FW: Building - James Caro @ Mon Oct 24, 2022 11am - 12pm (PDT) (Kalpesh Solanki)



Kalpesh Solanki <kalpesh1027@gmail.com>

**Notification: FW: Building - James Caro @ Mon Oct 24, 2022 11am - 12pm (PDT)
(Kalpesh Solanki)**

Google Calendar <calendar-notification@google.com>

Mon, Oct 24, 2022 at 10:50 AM

Reply-To: Conference Room 5 <conferenceroom5@ontariocagov.onmicrosoft.com>

To: Kalpesh Solanki <kalpesh1027@gmail.com>

[You have an upcoming event](#)

1/23/23, 10:35 AM

Gmail - Notification: FW: Building - James Caro @ Mon Oct 24, 2022 11am - 12pm (PDT) (Kalpesh Solanki)

Attachments

 image001.png

FW: Building - James Caro

Monday Oct 24, 2022 · 11am – 12pm (Pacific Time - Los Angeles)

Ok Gents,

I have conference room 5 set up for 11 am on Monday, and I will send you an invite. I have included Rudy our planning Director, Klaus your plan checker and Matt my supervising Building Inspector who was on the site with me. Please let me know if anyone else will be joining us.

Thank you,

James Caro
Building Official
City of Ontario | Community Development
JCaro@ontarioca.gov | 909-395-2172
[cid:image001.png@01D8E459.D50FBBB0]

-----Original Appointment-----

From: Conference Room 5

Sent: Wednesday, October 19, 2022 5:26 PM

To: Conference Room 5; Conference Room 5; James Caro; Kimberly Alvarado

Subject: Building - James Caro

When: Monday, October 24, 2022 11:00 AM-12:00 PM (UTC-08:00) Pacific Time (US & Canada).

Where: Conference Room 5

Location

Conference Room 5

[View map](#)

Guests

Conference Room 5 - organizer

kalpesh1027@gmail.com - creator

BCI

James J. Caro

Kimberly Alvarado

Matt Monteith

Nicolo De Guzman

Rudy Zeledon

[View all event details](#)

1/23/23, 10:35 AM

Gmail - Notification: FW: Building - James Caro @ Mon Oct 24, 2022 11am - 12pm (PDT) (Kalpesh Solanki)

You are receiving this email because you are subscribed to calendar notifications. To stop receiving these emails, go to Calendar settings, select this calendar, and change "Other notifications".

Forwarding this invitation could allow any recipient to send a response to the organizer, be added to the guest list, invite others regardless of their own invitation status, or modify your RSVP. [Learn more](#)



Kalpesh Solanki <kalpesh1027@gmail.com>

Need your assistance

James J. Caro <JCaro@ontarioca.gov>
To: Kalpesh Solanki <kalpesh1027@gmail.com>
Cc: Scott Murphy <SMurphy@ontarioca.gov>

Mon, Jan 9, 2023 at 10:41 AM

Hello Kal,

Following up on the below email, the corrections were sent back to your designer on the fourth of January, see below.

We will be waiting for your resubmittal.

<input type="checkbox"/>	B202205366	Under Review	01/04/2023	Tenant Improvement	1045	W	MISSION
--------------------------	----------------------------	--------------	------------	--------------------	------	---	---------

Page 1 of 1

B202205366 - Tenant Improvement

i A notice was added to this record on 2018-08-15.
 Condition: Housing Element Land Inventory : This site is one of the parcels on the Housing Element Land Inventory which specifies the site with the Housing Element. Severity: Notice
 Total conditions: 2 (Notice: 2)

[View notice](#)

Cancel Reports ▾ Help

Go To ▾ Workflow Workflow History (16) Application History (14) Related Records Address (1)

<ul style="list-style-type: none"> Workflow Tasks <input type="checkbox"/> Application Submittal <input type="checkbox"/> Construction Revisions <input type="checkbox"/> Plan Routing <input checked="" type="checkbox"/> Building Review <input type="checkbox"/> Corrections Required <input type="checkbox"/> Resubmitted <input type="checkbox"/> Corrections Required 	<p>Task Details Building Review</p> <p>Current Status Corrections Required</p> <p>Action By Nicolo Klaus De Guzman</p> <p>Comments 4th review with correction list attached to the plans. Sent correction to contact person thru email. Forwarded to Bin AA-7.</p>	<p>Status Date 01/04/2023</p> <p>Action by Department Building</p>
--	---	--

Comment Display in ACA

Thank you,

James Caro



Kalpesh Solanki <kalpesh1027@gmail.com>

Automatic reply: Need your assistance

Scott Murphy <SMurphy@ontarioca.gov>
To: Kalpesh Solanki <kalpesh1027@gmail.com>

Tue, Dec 27, 2022 at 1:36 AM

Ontario City Hall will be closed for the holidays from December 24th through January 2nd, reopening on January 3rd. I hope you have a wonderful holiday season.



Kalpesh Solanki <kalpesh1027@gmail.com>

Need your assistance

Kalpesh Solanki <kalpesh1027@gmail.com>
To: Scott Murphy <smurphy@ontarioca.gov>
Cc: kalpesh1027@gmail.com

Tue, Dec 27, 2022 at 1:35 AM

Mr Murphy

We turned in the plans to building last week.

I have now been informed that Mr Klaus will not return to work until Jan 9 2023

Does this mean the entire city of ontario has plan checks on hold until he returns or is this special just for me?

I have now been closed and out of business for over 5 1/2 months.

I know the city is aware of my frustrations and knows what they are doing.

Please call me at 310.283.8341 when you get a chance.

Kal Solanki

Building Official

City of Ontario | Community Development

JCaro@ontarioca.gov | 909-395-2172

-----Original Message-----

From: Scott Murphy <SMurphy@ontarioca.gov>

Sent: Monday, January 9, 2023 8:58 AM

To: Kalpesh Solanki <kalpesh1027@gmail.com>

Cc: James J. Caro <JCaro@ontarioca.gov>

Subject: RE: Need your assistance

Good morning Kal,

I wanted to update you on where we stand with your plan check. Klaus was in the office last week and did work on your plans. My understanding is that, as of Thursday, he was nearing completion of his review. He identified some revisions needed but, according to James Caro, the Building Official, the comments are relatively minor and should be easily/quickly fixed, putting you in position for permit issuance.

As I will be out of the office the next two weeks, please reach out to James Caro for the latest.

Thanks,

Scott Murphy, AICP

Executive Director Community Development

Direct: (909) 395-2419

-----Original Message-----

From: Kalpesh Solanki <kalpesh1027@gmail.com>

Sent: Thursday, January 5, 2023 7:54 AM

To: Scott Murphy <SMurphy@ontarioca.gov>

Subject: Re: Need your assistance

Following up on this email.

Please call me at 310.283.8341 when you get a chance.

Kal Solanki

> On Dec 27, 2022, at 3:06 PM, Kalpesh Solanki <kalpesh1027@gmail.com> wrote:

>

> Mr. Murphy

[Quoted text hidden]

Detailed History for Police Event #P222030236 As of 1/23/2023 13:17:22

Output for: 19786

Priority:2 Type:602 - TRESPASSING

Location: BEST ONTARIO INN, ONT at 1045 W MISSION BL, ONT

LocCross: btwn S PALMETTO AV and S MOUNTAIN AV

Map:7B

Created:	07/22/2022 13:00:35	OPDS1	80138
Entered:	07/22/2022 13:01:55	OPDS1	80138
Dispatch:	07/22/2022 13:34:04	OPDR02	80444
Enroute:	07/22/2022 13:34:04	OPDR02	80444
Onscene:	07/22/2022 13:34:04	OPDR02	80444
Closed:	07/22/2022 13:42:20	U1048	80363

THIS IS A CERTIFIED TRUE COPY OF
 THE ORIGINAL DOCUMENT ON FILE
 AT THE ONTARIO CALIFORNIA
 POLICE DEPARTMENT.

RECORDS SPECIALIST 19786
 DATE 1/23/23

Detailed History for Police Event #P222030236 As of 1/23/2023 13:17:22

Output for: 19786

Priority:2 Type:602 - TRESPASSING

Location: BEST ONTARIO INN, ONT at 1045 W MISSION BL, ONT

LocCross: btwn S PALMETTO AV and S MOUNTAIN AV

Map: 7B

Created:	07/22/2022 13:00:35	OPDS1	80138
Entered:	07/22/2022 13:01:55	OPDS1	80138
Dispatch:	07/22/2022 13:34:04	OPDR02	80444
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Onscene:	07/22/2022 13:34:04	OPDR02	80444
Closed:	07/22/2022 13:42:20	U1048	80363

THIS IS A CERTIFIED TRUE COPY OF
THE ORIGINAL DOCUMENT ON FILE
AT THE ONTARIO CALIFORNIA
POLICE DEPARTMENT.

RECORDS SPECIALIST

DATE

19786

1/23/23

**City of Ontario
Police Department
Arrest Log from 6/27/2022 to 6/29/2022**

THIS IS A CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT ON FILE AT THE ONTARIO CALIFORNIA POLICE DEPARTMENT
PLEASE TO
DATE 1/23/23
19786

LAKEY, CHARLES

Date of Birth:	11/04/1965	Hair Color:	Brown	Height:	510
Race:	B - Black	Eye Color:	Brown	Weight:	180
Sex:	Male	Occupation:	General Labor		
Arrest Date/Time:	6/28/2022 05:46	Arrest Location:	1045 W. MISSION		
Code Violation:		Booking Date/Time:	06/28/2022 06:31		
ZZ 65000	Local Ordinance Viol		RANCHO		
PC 29800(A)(1)	Felon/Etc Poss/Etc F/Arm		RANCHO		
PC 30305(A)(1)	Prohib Own/Etc Ammo/Etc		RANCHO		

1 FRANK A. WEISER (#89780)
2 Attorney at Law
3 3460 Wilshire Blvd., Ste. 1212
4 Los Angeles, California 90010
5 (213) 384-6964 - (voice)
6 (213) 383-7368 - (fax)
7 maimons@aol.com - (e-mail)

8 Attorney for Appellants
9 KALPESH SOLANKI,
10 BHARAT PATEL,
11 JAYA PATEL

Harin Maimons
Deputy City Clerk

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

14 APPEAL OF NOTICE AND ORDER)
15 TO VACATE, SECURE, SECURE,)
16 AND REPAIR/DEMOLISH PROPERTY)
17 LOCATED AT 1045 WEST MISSION)
18 BOULEVARD, ONTARIO, CA 91762;)
19 APN NO. 1011-382-65; DATE OF)
20 CITY NOTICE: 7/20/22)
21)
22)
23)
24)
25)
26)
27)
28)

29 **I.**

30 **STATEMENT OF LEGAL INTERESTS OF APPELLANTS**

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

34 Appellants BHARAT PATEL and JAYA PATEL (collectively "PATEL"), are
35 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

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

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

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 DATED: August 17, 2022

LAW OFFICES OF FRANK A. WEISER

19
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)

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-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

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.

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.

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.

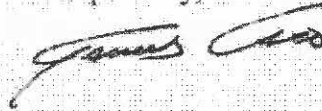
If you have any questions regarding this Notice and Order, please contact Donnie Flores at (909) 395-2520, Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays, or in writing at City of Ontario, 208 W. Emporia St., Ontario, CA 91762.

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

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

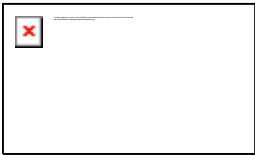
Claudia Y. Isbell

From: Charisse Smith <Charisse.Smith@bbklaw.com>
Sent: Wednesday, October 12, 2022 9:11 PM
To: 'maimons@aol.com'
Subject: Continuance of Administrative Appeal for 1045 W. Mission

Hi Frank,

Per our conversation today, at your request the City will continue the administrative appeal of your client currently scheduled for Friday, October 14, 2022 at 10:00 am. due to the conflict in your schedule with a hearing in federal court. We will work with you and reset a new hearing date. So that there is no further conflict can you please propose several available dates the first two weeks of November, and we will try to accommodate your schedule.

Sincerely,



Charisse Smith [bbklaw.com]

Of Counsel

charisse.smith@bbklaw.com

T: (909) 466-4907

bbklaw.com

www.BBKlaw.com

bbklaw.com

[\[linkedin.com\]](#)

[\[instagram.com\]](#)

LAW OFFICES

Member of the Bar:

FRANK A. WEISER

Refer To File No.

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

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

July 17, 2022

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

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

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").

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
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Operator Kalpesh Solanki and On-Site Managers
Bharat Patel and Jaya Patel

July 17, 2022

Page 2

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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).

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

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

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July 17, 2022

Page 3

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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.

James Caro, CBO
Building Official
Building Department
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303 East B Street
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City of Ontario
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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).

James Caro, CBO
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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).

James Caro, CBO
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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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Building Department
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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
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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." Zinerman 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 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 F.4th 1186(9th Cir. 2021). While several national law firms

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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.

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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 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)
Ruben Duran, Esq. (By E-Mail at ruben.duran@bbklaw.com)
Richard T. Egger, Esq. (By E-Mail at richard.egger@bbklaw.com)
Venus G. Trunnel, Esq. (By E-Mail at venus.trunnel@bbklaw.com)

FAW:aw



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

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: 1045 WEST MISSION BLVD APN: 101138265

Property Owner(s): KALPESH P SOLANKI

Mailing Address: 6939 SCHAEFER AVE D235

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:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Complete exterior | <input checked="" type="checkbox"/> Complete interior |
| <input type="checkbox"/> Garage | <input checked="" type="checkbox"/> Swimming pool |
| <input checked="" type="checkbox"/> Other <u>OFFICE, LOBBY, UTILITY ROOM(S)</u> | |

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

P
7/12/22

EXHIBIT “A”

RECORDING REQUESTED BY:

Provident Title Company

AND WHEN RECORDED MAIL TO:

Kalpesh Solanki
6939 Schaefer Avenue D 235
Chino, CA 91710

Electronically Recorded in Official Records, County of San Bernardino

9/22/2017
03:59 PM
CG



BOB DUTTON
ASSESSOR - RECORDER - CLERK
949 Provident Title Company

Doc #: 2017-0393399



Titles:	1	Pages:	3
Fees			31.00
Taxes			4620.00
Other			.00
PAID			4651.00

Title Order No.: 11362724

Escrow No.: 132672-008

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX is \$4,620.00

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale.
- Unincorporated area City of Ontario

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

RAMESHCHANDRA H. PATEL and JASHUBEN R. PATEL, Trustees of the Rameshchandra H. and Jashuben R. Patel AB Living Trust

hereby GRANT(s) to:

KALPESH P. SOLANKI, a married man, as his sole and separate property

the real property in the City of Ontario, County of San Bernardino, State of California, described as:

PARCEL 2 OF PARCEL MAP NO. 4297, RECORDED IN BOOK 39 PAGE 8 OF PARCEL MAPS, TOGETHER WITH THE EAST 75.00 FEET OF THE SOUTH 284.00 FEET OF THE NORTH 302.00 FEET OF LOT 3, BLOCK 16, MONTE VISTA TRACT NO. 2, RECORDED IN BOOK 16 PAGE 33 OF MAPS, RECORDS OF SAN BERNARDINO, STATE OF CALIFORNIA.

THE ABOVE LEGAL DESCRIPTION IS PURSUANT TO THAT LOT LINE ADJUSTMENT (MERGER) L91-05 RECORDED FEBRUARY 5, 1991 AS INSTRUMENT NO. 91-41704 OF OFFICIAL RECORDS.

APN: 1011-382-65-0-000

August 22, 2017

Signature Page attached hereto and made a part hereof

MAIL TAX STATEMENTS TO PARTY SHOWN BELOW; IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE:

Title Order No.: 11362724
Escrow No.: 132672-008
APN: 1011-382-65-0-000

Signature Page

DATED: August 22, 2017

THE RAMESHCHANDRA H. AND
JASHUBEN R. PATEL AB LIVING TRUST

By: Ramesh Patel
Rameshchandra H. Patel, Trustee

By: Jashuben R. Patel
Jashuben R. Patel, Trustee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS

On SEPTEMBER 18, 2017 before me, SHEIBA RAJADAS, a Notary Public personally appeared, Rameshchandra H. Patel and Jashuben R. Patel, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]



ILLEGIBLE NOTARY SEAL DECLARATION

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary SHEIBA RAJADAS

Date Commission Expires 5/7/2018

Notary Identification Number 2063892
(For Notaries commissioned after 1-1-1992)

Manufacturer/Vendor Identification Number NNA1
(For Notaries commissioned after 1-1-1992)

Place of Execution of this Declaration SHERMAN OAKS, CA

Date 9/22/2017



ELLEN LEE

EXHIBIT “B”



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

EXHIBIT “C”

LAW OFFICES

Member of the Bar:

FRANK A. WEISER

Refer To File No.

United States Supreme Court

3460 Wilshire Boulevard, Suite 1212

United States Court of Appeals for Third Circuit

Los Angeles, California 90010

United States Court of Appeals for Fourth Circuit

Telephone: (213) 384-6964

United States Court of Appeals for Fifth Circuit

Fax: (213) 383-7368

United States Court of Appeals for Sixth Circuit

November 9, 2021

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

Page 2

(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:
Owner and Operator Kalpesh P. Solanki/
Case No. CE21001487

November 9, 2021

Page 3

(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
Mission Blvd, Ontario, CA 91608/My client:
Owner and Operator Kalpesh P. Solanki/
Case No. CE21001487

November 9, 2021

Page 4

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

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
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

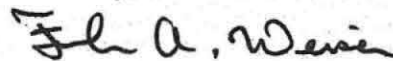
November 9, 2021

Page 5

(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.

Sincerely,



Frank A. Weiser
Attorney at Law

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

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: 1045 WEST MISSION BLVD APN: 101138265

Property Owner(s): KALPESH P SOLANKI

Mailing Address: 6939 SCHAEFER AVE D235

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:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Complete exterior | <input checked="" type="checkbox"/> Complete interior |
| <input type="checkbox"/> Garage | <input checked="" type="checkbox"/> Swimming pool |
| <input checked="" type="checkbox"/> Other <u>OFFICE, LOBBY, UTILITY ROOM(S)</u> | |

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

P
7/12/22

EXHIBIT “E”

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 (909) 395-2361 or visit automation.ontarioca.gov/onlinepermits

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

2) Provide permits for Drywall
Repair in 4 Units upstairs

3) Provide permit for electrical
+ plumbing Repair + Repair
of RATED START.

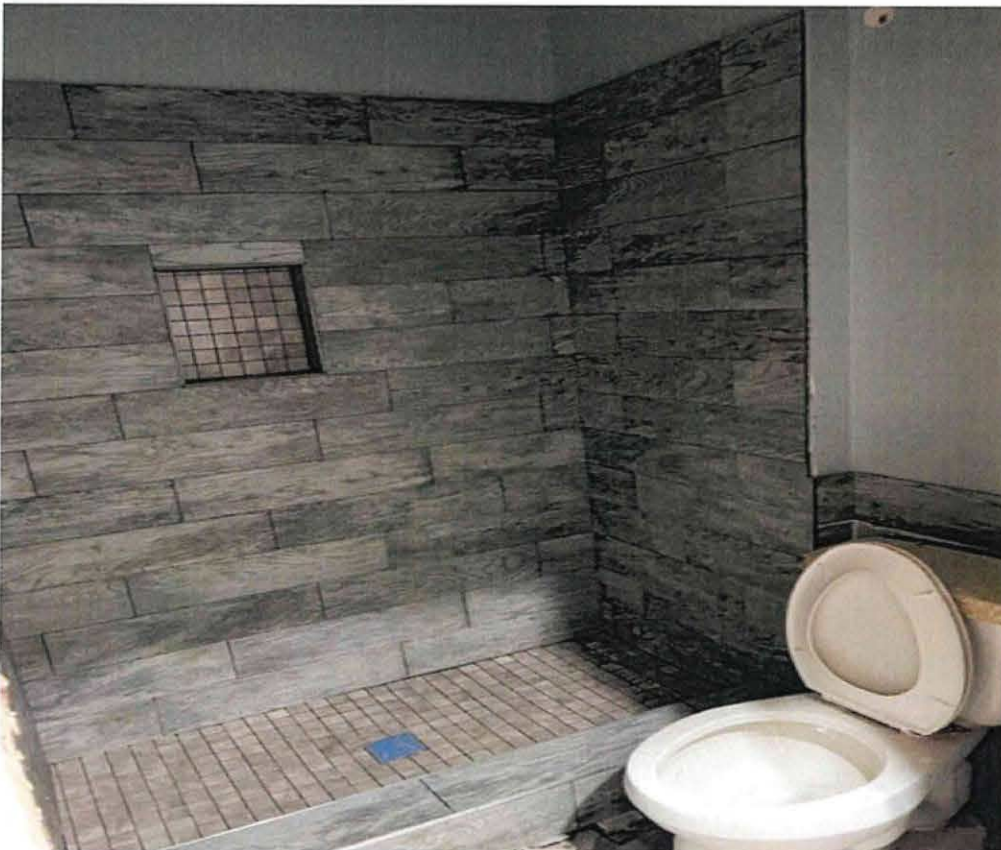
4) Do NOT COVER UNTIL
Inspected

Inspector: [Signature] Date: 6/28/22 Time: _____

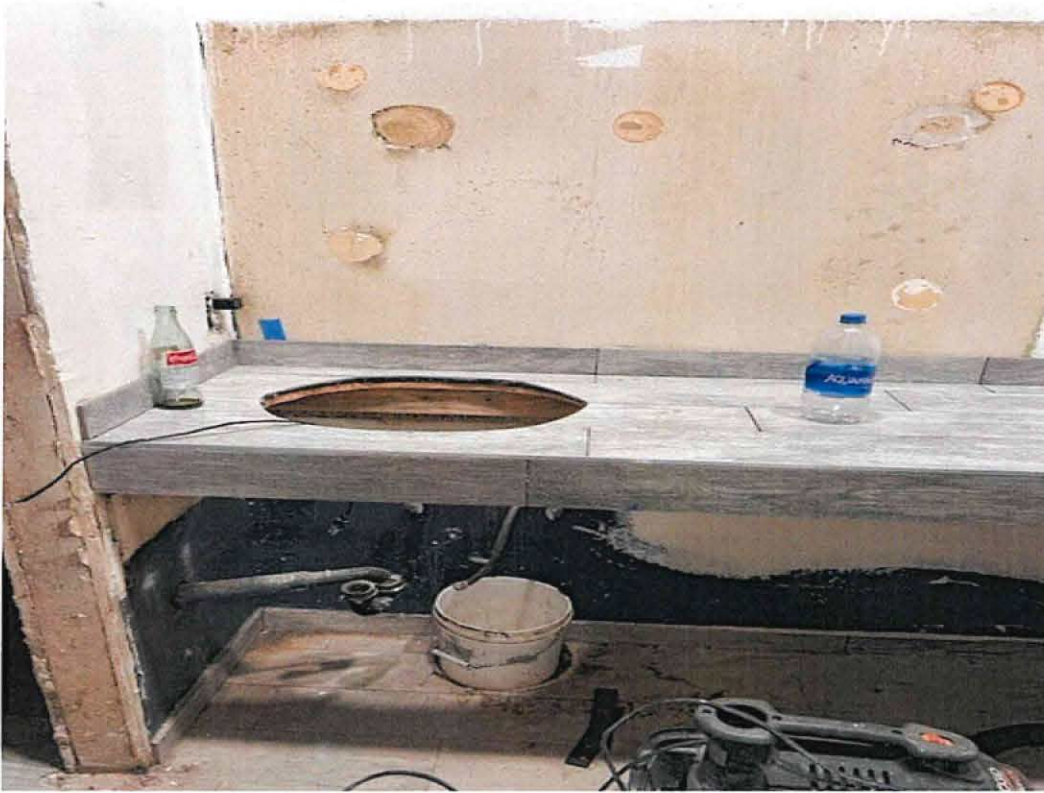
Office Hours: Monday – Friday 7:30 - 8:00 A.M. & 4:00- 4:30 P.M.
Inspector's Telephone Number: (909) 395-2362

Remove, Alter, or Cover this Permit
Until Authorized by City of Ontario

1045 West Mission Boulevard



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 (909) 395-2361 or visit automation.ontarioca.gov/onlinepermits

1) Stop work on Unit Downstairs
Provide permits for NEW
electrical, plumbing, Drywall
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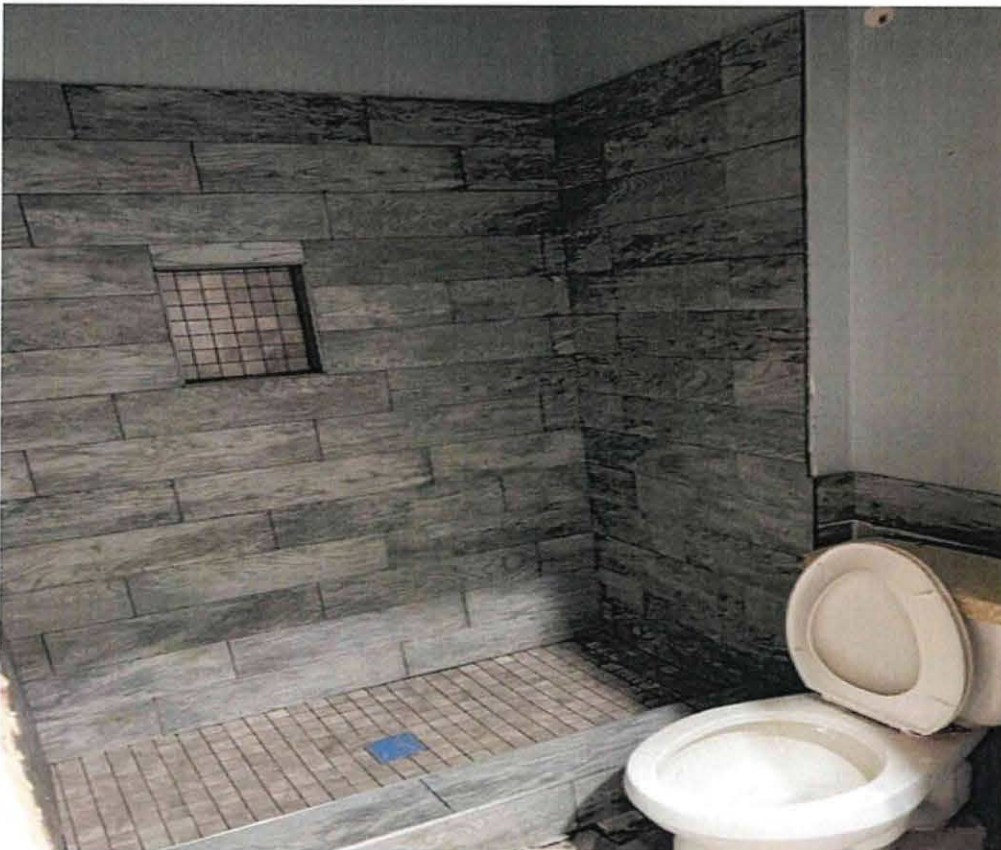
4) Do NOT COVER UNTIL
Inspected

Inspector: [Signature] Date: 6/28/22 Time: _____

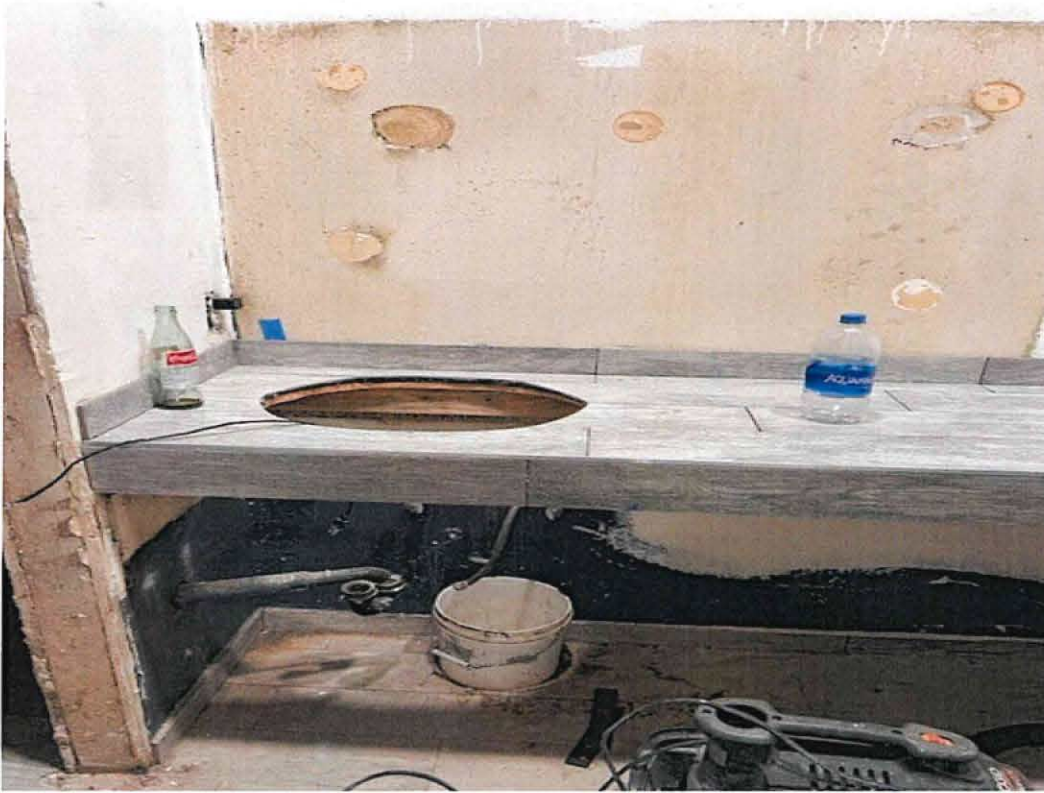
Office Hours: Monday - Friday 7:30 - 8:00 A.M. & 4:00- 4:30 P.M.
Inspector's Telephone Number: (909) 395-2362

Remove, Alter, or Cover this sign until Authorized by City of Ontario

1045 West Mission Boulevard



1045 West Mission Boulevard



SECTION 1.8.4
PERMITS, FEES, APPLICATIONS
AND INSPECTIONS

1.8.4.1 Permits.

A written construction permit shall be obtained from the enforcing agency prior to the erection, construction, reconstruction, installation, moving or alteration of any building or structure.

Exceptions:

1. Work exempt from permits as specified in Chapter 1, Division II, Scope and Administration, Section 105.2.
2. Changes, alterations or repairs of a minor nature not affecting structural features, egress, sanitation, safety or accessibility as determined by the enforcing agency.
3. Retroactive permits issued in accordance with Health and Safety Code Section 17958.12.

Exemptions from permit requirements shall not be deemed to grant authorization for any work to be done in any manner in violation of other provisions of law or this code.

CITY OF



ONTARIO

303 EAST B STREET | ONTARIO, CALIFORNIA 91764

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

PAUL S. LEON
MAYOR

SHEILA MAUTZ
CITY CLERK

ALAN D. WAPNER
MAYOR PRO TEM

JAMES R. MILHISER
TREASURER

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

SCOTT OCHOA
CITY MANAGER

January 3, 2023

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 19th day of January 2023, at the hour of 2:00 p.m., upon the Notice and Order to Vacate, Secure, and Repair/Demolish served upon you and dated July 20, 2022. The initial hearing was scheduled for October 14, 2022 and continued at your request. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present 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
Building Official
Building Appeals Board

JC/db

CITY OF



ONTARIO

303 EAST B STREET | ONTARIO, CALIFORNIA 91764

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

PAUL S. LEON
MAYOR

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

SHEILA MAUTZ
CITY CLERK

ALAN D. WAPNER
MAYOR PRO TEM

July 20, 2022

JAMES R. MILHISER
TREASURER

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

VIA FIRST CLASS AND CERTIFIED MAIL

SCOTT OCHOA
CITY MANAGER

Kalpesh P Solanki
6939 Schaerfer Ave D235
Chino, CA 91710

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 HGWY 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

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.

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.

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.

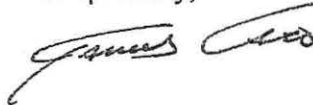
If you have any questions regarding this Notice and Order, please contact Donnie Flores at (909) 395-2520, Monday through Friday, 8:00 a.m. to 5:00 p.m., except holidays, or in writing at City of Ontario, 208 W. Emporia St., Ontario, CA 91762.

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

Sec. 8-1.01. Adoption of the Building Code.

The 2019 Edition of the California Building Code, which incorporates and amends the 2018 Edition of the International Building Code, as published by the International Code Council, subject to the amendments set forth in this chapter, is hereby adopted and made a part of this chapter as if fully set forth at length herein. One (1) copy of said code is on file in the office of the City Clerk for public review.

(§ 1, Ord. 2481, eff. September 20, 1990, as amended by § 1, Ord. 2535, eff. December 31, 1992, § 1, Ord. 2617, eff. July 4, 1996, § 1, Ord. 2691, eff. July 1, 1999, § 2, Ord. 2769, eff. January 16, 2003, § 2, Ord. 2882, eff. January 3, 2008, § 2, Ord. 2928, eff. January 7, 2011, § 2, Ord. 3063, eff. December 15, 2016, § 2, Ord. 3148, eff. December 19, 2019)

State of California

HEALTH AND SAFETY CODE

Section 17920.3

17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

- (a) Inadequate sanitation shall include, but not be limited to, the following:
 - (1) Lack of, or improper water closet, lavatory, or bathtub or shower in a dwelling unit.
 - (2) Lack of, or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
 - (3) Lack of, or improper kitchen sink.
 - (4) Lack of hot and cold running water to plumbing fixtures in a hotel.
 - (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
 - (6) Lack of adequate heating.
 - (7) Lack of, or improper operation of required ventilating equipment.
 - (8) Lack of minimum amounts of natural light and ventilation required by this code.
 - (9) Room and space dimensions less than required by this code.
 - (10) Lack of required electrical lighting.
 - (11) Dampness of habitable rooms.
 - (12) Infestation of insects, vermin, or rodents as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the infestation can be determined by a code enforcement officer, as defined in Section 829.5 of the Penal Code, upon successful completion of a course of study in the appropriate subject matter as determined by the local jurisdiction.
 - (13) Visible mold growth, as determined by a health officer or a code enforcement officer, as defined in Section 829.5 of the Penal Code, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use.
 - (14) General dilapidation or improper maintenance.
 - (15) Lack of connection to required sewage disposal system.
 - (16) Lack of adequate garbage and rubbish storage and removal facilities, as determined by a health officer or, if an agreement does not exist with an agency that has a health officer, the lack of adequate garbage and rubbish removal facilities can be determined by a code enforcement officer as defined in Section 829.5 of the Penal Code.

(b) Structural hazards shall include, but not be limited to, the following:

- (1) Deteriorated or inadequate foundations.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration.

(5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any nuisance.

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except plumbing that conformed with all applicable laws in effect at the time of installation and has been maintained in good condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and that is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except equipment that conformed with all applicable laws in effect at the time of installation and that has been maintained in good and safe condition, or that may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation that, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those that are specifically allowed or approved by this code, and that have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof that is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and that have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof that conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

(o) Inadequate structural resistance to horizontal forces.

“Substandard building” includes a building not in compliance with Section 13143.2.

However, a condition that would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of those requirements in effect at the time of construction, alteration, or conversion.

(Amended by Stats. 2015, Ch. 720, Sec. 3. (SB 655) Effective January 1, 2016.)

CITY OF



ONTARIO

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DEBRA DORST-PORADA
RUBEN VALENCIA
COUNCIL MEMBERS

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 14th 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

