

Senator Dianne Feinstein
Washington, D. C.
October 30, 2017

The Honorable London Breed
President, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Presidio Terrace Tax Sale Rescission Hearing on November 28, 2017

Dear President Breed:

I have followed with interest the tax sale of the Presidio Terrace Common Areas by San Francisco's Treasurer and Tax Collector since it was first reported several months ago, and I write to express my concerns about serious principles at stake in the matter you will consider at the Board's tax sale rescission hearing on November 28, 2017.

As you might expect, and as I readily concede, my own family's time as Presidio Terrace residents lends a measure of personal perspective to a dispute involving many of our friends and former neighbors. While that is an appropriate basis for the personal empathy I hold for the neighborhood's families, I acknowledge it here as a preliminary point of emphasis for what this letter is not. My family's history in the neighborhood is neither a legitimate basis to influence Board decision-making, nor a factor in underlying principles that should be decisive to a just resolution. My interest in the dispute derives instead from more than four decades of service as a public official -- much of it for the City and County of San Francisco — and priorities reflected in my career's work to ensure fair play and equal treatment as foundational duties of those of us entrusted to govern.

When the improbable story of Presidio Terrace's tax sale first made headlines last August, my own reaction of near-disbelief seemed widely shared by

others. I would not have guessed bureaucracies still held surprises for me. But this one did.

For decades, the San Francisco Treasurer/Tax Collector's Office sent tax bills to the wrong address. And for decades, those bills were presumably "returned-undeliverable" to the same office. Yet continually informed by the apparently decades-long feedback loop that the wrong address was still wrong, the office's ignorance endured. Finally, the office initiated a tax sale proceeding for tax defaulted property. To meet the constitutional burdens imposed by that process, the Tax Collector sent notice to the property's owner — to the same wrong address once again! The office made no further effort to contact the property owners for whose benefit the street exists, and it posted no notice whatsoever on the property itself. After all of that, the Treasurer/Tax Collector's office's insistence that taxpayers were wholly to blame for that office's own fiasco was breathtaking.

Among plot twists recounted in news reports on Presidio Terrace that seemed near disbelief, however, one stood out to me as fully unbelievable. In the United States of America, no one should lose property at the hands of the government without knowing about it.

For a government proceeding to meet the constitutional burdens necessary to deprive property from an owner without the owner's awareness, one would reasonably expect to see rare and highly unusual circumstances. Yet the San Franciscans deprived of their property without their knowledge in April 2015 presented no such unusual circumstances — apart from the wholly insufficient efforts of their city's Tax Collector to notify them. Adding insult to the unconstitutional injury of being denied their due process rights, they collectively remained unaware of the sale for two years until first learning of its new owners.

It is for the reasons above that I urge you and your colleagues to overturn the tax sale at the Board's forthcoming hearing. Thank you for considering my views on the serious principles at stake. If I can be of further assistance, please feel free to contact me.

Sincerely,

Dianne Feinstein
United States Senator

CC: Members, San Francisco Board of Supervisors
Angela Calvillo, Clerk of the Board of Supervisors

DF:se

GREGORY HARPER, SBN 146119
Law Offices of Gregory Harper
2039 Shattuck Avenue, Suite 304
Berkeley, California 94704-1150
Tel: 510.704.0494
Fax: 510.704.2580
email: ghlaw@pacbell.net

Attorney for Petitioner and Cross-Defendant

RASH B. GHOSH

FILED
AT ALAMEDA COUNTY
APR 30 2007
CLERK OF THE SUPERIOR COURT
By _____ Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

Rash B. Ghosh

Petitioner,

and

Shirley Dean et al.

Respondent.

City of Berkeley,

Cross- Complainant

vs.

Rash B. Ghosh and Does 1-100

Cross-Defendants.

Case No. 2002-043750
DECLARATION OF GREGORY HARPER IN SUPPORT OF OPPOSITION TO MOTION FOR APPOINTMENT OF RECEIVER AND INJUNCTION

Date: May 9, 2007
Time: 2:00 P.M.
Dept.: 31

I Gregory Harper do hereby declare:

1. I am the attorney of record for the petitioner /cross defendant, Rash B. Ghosh.
2. If called upon, I can testify as to nuisances and the abatement policy of the City of Berkeley.
3. I am familiar with the past implementation of policy of the City of Berkeley relative to nuisance enforcement.

4. I have represented divergent communities in the city of Berkeley relative to public and private nuisances.

5. I was the attorney of record in Harper v Robinson, a nuisance matter wherein the community sought abatement in Superior Court, of a nuisance against a 44 unit housing project through the administrative process of the city of Berkeley. The city failed to act and the community had to seek relief through the court and acquire an injunction. The defendant therein abated the nuisance and the case settled during trial. This matter was filed while the city sought code enforcement against Dr. Ghosh.

6. I was the attorney of record in Lewinsky v U.S.C.A., another matter where the community was forced by the city to seek redress first in small claims court and subsequently in Superior Court. The nuisance was abated and the case settled during trial. The city failed to move provide adequate code enforcement efforts to abate the nuisance.

7. In each instance, a public nuisance was indicated and the city failed to act. The community was forced to seek relief and the court failed to impose a receivership. Nevertheless each nuisance was abated thus ending court intervention.

I declare under penalty of perjury the foregoing are true and correct under penalty of perjury.

Dated: April 24, 2007

Respectfully submitted,

GREGORY HARPER
Attorney for Petitioner, Cross-Defendant
RASH B. GHOSH

ORIGINAL

Ross, Steven D.

From: Ross, Steven D
t: Wednesday, July 26, 2006 5 21 PM
Cowan, Zach
~~Rhoades, Mark~~
Subject: ~~RE 2507-09~~ McGee

The abatement order wasn't clear that a portion of the third floor was legal However, in looking at the plans I see that the "illegal portion is about 722 sq ft and the total 3rd floor is about 1300 sq ft I'm not sure how that jibes with the "illegal addition measuring 963 sq ft"

I'd be happy to meet with you to discuss the plans If you'd like to meet tomorrow, check our schedules on Outlook and send me meeting request I'll be on vacation from Friday (7/28) to Friday (8/11)

S

-----Original Message-----
From: Cowan, Zach
Sent: Wednesday, July 26, 2006 3.23 PM
To: Ross, Steven D
Subject: RE. 2507-09 McGee

I believe it is correct that the rear part of the third floor is not covered by the abatement order, so there may be some truth to this aspect. The deck's got to go Should we get together so I can look at the most recent plans re the 3rd floor?

Zach Cowan
Assistant City Attorney
2180 Milvia Street, Fourth Floor
Berkeley, CA 94704
TEL 510.981.6950
FAX 510.981.6960

-----Original Message-----
From: Ross, Steven D.
Sent: Wednesday, July 26, 2006 3:21 PM
To: Cowan, Zach
Subject: 2507-09 McGee

Zach,

I have reviewed the plans submitted by Bill Coburn on 3/20/06 I apologize for the delay. this hasn't been a priority

PLANNING & DEVELOPMENT
Current Planning 2120 Milvia Street, Berkeley, CA 94704
Tel: 510.705.8111 TDD: 510.981.9603 Fax: 510.540.1393 Email: Planning@ci.berkeley.ca.us

5 1888

RECEIVED
JUN 25 20

LOW IMPACT HOME OCCUPATION APPLICATION

RECEIVED

Project Type: HUP

Date: JUN 25 2002 Application # 02-900001177

CURRENT PLANNING Intake Planner:

A Home Occupation is defined as a business use of a residential property, which is incidental ar accessory to the residential use, does not change the residential character thereof, is limited so as not substantially reduce the residential use, and is operated only by the inhabitants of the subject residenc A Home Occupation which meets all of the conditions set forth in Zoning Ordinance Section 23C.16.02 is allowed by right in any Dwelling Unit or Group Living Accommodation room as a Low Impact Hom Occupation, subject to the payment of a Zoning Certificate fee and the gross receipts tax pursuant to th City's business license tax ordinance as set forth in Chapter 9.04. No Home Occupation which involve non-resident employees and/or a Firearm/Munitions Business is allowed. Home Occupations propose in a new detached accessory building may require an Administrative Use Permit, and Moderate Impac Home Occupations require a Use Permit and a public hearing (See Section 23C.16.030).

- **Project Address (Location of Home Occupation):** 1700 Dwight Way **Unit/Suite#:** _____
- **What home occupation do you propose?** Use as office
- **Applicant Name (Print)** R. Ghosh / Int Inst. of Bengal Basin
  Applicant Signature: _____ Phone # 510 841-3253
  Daytime Phone # 841-3253 FAX # Same E-mail: Bengal_basin@ho

Will any structural alterations be needed for this occupation? Yes_____ No X Co

Will an existing detached accessory structure or new accessory building be used? Yes: _____ No: X
If yes, explain: _____

Will any vehicles, other than your private car, be used in connection with this operation? Yes___ No X
If yes, explain: _____

What are the hours and days of your operation? Hours per day 4-5hs Days of Week 10 am 3 pm

Will any tools, equipment or supplies be stored? (e.g., outside, in house, in garage, in vehicle)?
If yes, explain: _____ Yes:_____ No: X

1889

This side for staff use only

Project Type Code: ZC

Total Fee: $165.00

Application #: 02-90000177 APN: 054-1807-022-00

Project General Information Description limited to 40 characters [Example: Const DU @ 123 Main St]

HOME OCC @ 1700 Dwight Way

JUN 25 2002

PLANNING

Project Data Maintenance		Project Summary	
Zoning District	R-2	New Dwellings (Net #)	0
Zoning Section 1	23C.16.020	New Sq. Ft. Floor Area (Net #)	0
Zoning Section 2		Owner Authorize? [Y/N/NA]	NA
Zoning Section 3		Bldg Div notify? [Y/N/NA]	Y
Zoning Section 4		Alcohol related? [Y/N/NA]	N
Zoning Section 5		First Source? [Y/N/NA]	NA

City of Berkeley
*** CUSTOMER RECEIPT ***
OPER: REGISTER1 OC DRAWER: 1
DATE: 6/25/02 01 RECEIPT: 0008910

DESCRIPTION	QTY	AMOUNT	TP	TM
2002 90000177	1	$165.00	#PZ	CK
PLANNING & ZONIN		CK: 1184		

TENDER DETAIL
CK 1184 $165.00
DATE: 6/25/02 TIME: 14:45:41
TOTAL CHECK $165.00
AMOUNT TENDERED $165.00

*** THANK YOU FOR YOUR PAYMENT ***

Check all that apply:

	700	( )	MOD w/o Public Hearing
	100	( )	Use Permit - Flat Fee [x ___ (#)]
	100	( )	Use Permit – Calculated Fee:
			Project Valuation. $_____
	100	( )	Use Permit – Conversion
	100	( )	VAR – Yard/Height
	100	( )	VAR – Other
	900	(X)	ZC Low Impact Home Occupation
$50K]	900	( )	ZC - Non-Residential
alc.		( )	Public Hearing
view		( )	Appeals of AUPs to ZAB
nmon		( )	Double-Fee[Penalty] (Base x 2)
		( )	Other Zoning Fees: $
		$165.00	TOTAL [Amount Paid]

700	( )	MOD w/ Public Hearing

04-12-02