

**Smith, Sandra M**

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**From:** Melissa [REDACTED]  
**Sent:** Friday, March 27, 2015 3:28 PM  
**To:** Miles, David; Taylor, Marie (Allene)  
**Cc:** Hom, Donna; Low, Tim; Smith, Sandra M; Taylor, Marie (Allene); Sandercock, Deborah; Flores, John; Flynn, Rachel; Sam Levin; [REDACTED] Morris; Max Weintraub; CDA Crosby David  
**Subject:** Re: Multiple Violations of the Implied Warranty of Habitability - Today: No warnings prior to disturbing asbestos / lead paint in a 1920s apartment building

David / Marie,

I know you had asked Vickie Corley and Kevin Gillikin to meet you at the Oakland Building Inspection department today at 1pm to produce permits for the work being done, or a stop work order would be issued.

Meanwhile, I have been sitting here while the work on my exterior wall continues to the point where I'm concerned that they will poke holes right through.

Even though my bedroom was taped and covered with plastic sheeting during the stucco removal, I just entered my bedroom to find construction debris had made it through, and there are little piles of it on my floor around the perimeter of the bedroom. (My bedroom is sealed like a tent, but now I will need to clean it before I can allow my cat to roam freely through the house as she is accustomed to)

I have no idea what is in that dust, and am not very happy about the fact that my neighbors are still sick, and forced to stay in an extended stay hotel with their pets, and I will likely need to do the same.

Do we know if there is or is not a permit for removing the wood from the outside of the building? If there wasn't a permit, it appears that they got to perform the work regardless (which after my past dealings with Kevin Gillikin, appears to be his M.O. No permits are needed, just get it done before the stop work order is issued)

Currently sitting in my dark livingroom, because I am unable to open my curtains or windows when there are workers everywhere. I have no idea why I should even pay rent next month (except that I know they can evict me far easier than I can get illegal work stopped)

This is frustrating, scary and just plain sad.

My neighbors were forced to relocate with less than 24 hours notice, due to work that we should have been warned about several months ago. They have no idea when (or if) they can return to their apartments. One of my neighbors purchased dust masks for when they enter their unit to retrieve necessary items.

I hope you all have pleasant weekends, because I doubt any of us will.

Melissa Hennings  
374 41st Street Oakland, CA

sent through the magic of portable technology

On Mar 27, 2015, at 12:49 PM, "Luby, Oliver" <[OLuby@oaklandnet.com](mailto:OLuby@oaklandnet.com)> wrote:

Thank you, Donna. I just spoke with CM Kalb, and is anticipating that the time will actually be approximately 1:15 pm.

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**From:** Hom, Donna

**Sent:** Friday, March 27, 2015 9:58 AM

**To:** Low, Tim

**Cc:** Melissa Hennings; Smith, Sandra M; Taylor, Marie (Allene); Sandercock, Deborah; Luby, Oliver; Flores, John; Flynn, Rachel

**Subject:** Re: Multiple Violations of the Implied Warranty of Habitability - Today: No warnings prior to disturbing asbestos / lead paint in a 1920s apartment building

Tim

Council Member Kalb will be on site tomorrow at approximately 12:45 pm. Thank you

Donna Hom

Interim Assistant City Administrator

City of Oakland

1 Frank Ogawa Plaza #301

Oakland, CA 94612

(510) 238-2038

[Dhom@oaklandnet.com](mailto:Dhom@oaklandnet.com)

On Mar 26, 2015, at 9:09 PM, Low, Tim <[TLow@oaklandnet.com](mailto:TLow@oaklandnet.com)> wrote:

Please voice your concern over health safety issues to Senior Inspector David Miles tomorrow.

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**From:** Melissa Hennings [REDACTED]

**Sent:** Thursday, March 26, 2015 8:26 PM

**To:** Hom, Donna

**Cc:** Smith, Sandra M; Low, Tim; Taylor, Marie (Allene); Sandercock, Deborah; Luby, Oliver; Flores, John; Labayog, Edward

**Subject:** Re: Multiple Violations of the Implied Warranty of Habitability - Today: No warnings prior to disturbing asbestos / lead paint in a 1920s apartment building

I have no idea if I can safely stay in my apartment

On Mar 26, 2015, at 7:50 PM, Hom, Donna <[DHom@oaklandnet.com](mailto:DHom@oaklandnet.com)> wrote:

Thank you, Sandra.

**Donna Hom**

Donna Hom

Interim Assistant City Administrator

1 Frank Ogawa Plaza #301

Oakland, CA 94612  
(510) 238-2038 (Phone)  
(510) 238-2223 (Fax)  
(510) 238-2007 (TDD)

<image004.jpg>

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**From:** Smith, Sandra M  
**Sent:** Thursday, March 26, 2015 11:12 AM  
**To:** Hom, Donna; M Hennings [REDACTED]  
**Cc:** Low, Tim; Taylor, Marie (Allene); Sandercock, Deborah; Luby, Oliver; Flores, John; Labayog, Edward  
**Subject:** RE: Multiple Violations of the Implied Warranty of Habitability - Today: No warnings prior to disturbing asbestos / lead paint in a 1920s apartment building

Hi Donna,

I forwarded the email with the tenant complaints to Inspector Clarke who met with the County of Alameda, Healthy Homes yesterday. Healthy Homes, Lead Prevention inspected the units and met with the contractor to outline areas of concern. Inspector Clarke went to the site this morning and will check with the property owner to be sure their permit includes the additional exterior repairs. If there are further complaints they should be referred to Gregory Clarke, [gclarke@oaklandnet.com](mailto:gclarke@oaklandnet.com) or his supervisor Ed Labayog, [elabayog@oaklandnet.com](mailto:elabayog@oaklandnet.com).

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**From:** Hom, Donna  
**Sent:** Thursday, March 26, 2015 8:32 AM  
**To:** Smith, Sandra M; M Hennings [REDACTED]  
**Cc:** Low, Tim; Taylor, Marie (Allene); Sandercock, Deborah; Luby, Oliver; Flores, John  
**Subject:** RE: Multiple Violations of the Implied Warranty of Habitability - Today: No warnings prior to disturbing asbestos / lead paint in a 1920s apartment building

Hi, Sandra:

I can forward the information but how do we resolve it? has there been any enforcement effort done? can you provide more information on what we have done so far and what are the next steps? Would you please respond to all in future exchange? Thank you.

Hi, Ms. Hennings:

I am forwarding information from Planning and Building staff and asking for follow up. Thank you.

**Donna Hom**

Donna Hom  
Interim Assistant City Administrator  
1 Frank Ogawa Plaza #301  
Oakland, CA 94612  
(510) 238-2038 (Phone)  
(510) 238-2223 (Fax)  
(510) 238-2007 (TDD)

<image005.jpg>

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**From:** Smith, Sandra M  
**Sent:** Thursday, March 26, 2015 7:37 AM  
**To:** Hom, Donna  
**Cc:** Low, Tim; Taylor, Marie (Allene); Sandercock, Deborah  
**Subject:** RE: Multiple Violations of the Implied Warranty of Habitability -  
Today: No warnings prior to disturbing asbestos / lead paint in a 1920s  
apartment building

Good Morning Donna,

We received multiple emails regarding this property and Inspector Gregory Clarke has performed a recent inspection at the site (inspection comments attached).

Thank you for forwarding this information.

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**From:** Inspection Counter  
**Sent:** Wednesday, March 25, 2015 4:10 PM  
**To:** Smith, Sandra M  
**Subject:** FW: Multiple Violations of the Implied Warranty of Habitability -  
Today: No warnings prior to disturbing asbestos / lead paint in a 1920s  
apartment building

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**From:** Hom, Donna  
**Sent:** Monday, March 23, 2015 6:50 PM  
**To:** M Hennings; BAA Management; Byrd, Michele  
**Cc:** [REDACTED]; Sandercock, Deborah;  
mhiggins; mhiggins; [REDACTED]; Miles, David; Crosby, David, CDA; Weintraub, Max; [REDACTED]  
Inspection Counter; Luby, Oliver; Labayog, Edward; Flores, John  
**Subject:** RE: Multiple Violations of the Implied Warranty of Habitability -  
Today: No warnings prior to disturbing asbestos / lead paint in a 1920s  
apartment building

Hi, Michele:

I am forwarding this e-mail and see if Housing Department can look into this matter and advise us what the City can do. Thank you.

**Donna Hom**

Donna Hom  
Interim Assistant City Administrator  
1 Frank Ogawa Plaza #301  
Oakland, CA 94612  
(510) 238-2038 (Phone)  
(510) 238-2223 (Fax)  
(510) 238-2007 (TDD)

<image005.jpg>

**From:** M Hennings [REDACTED]  
**Sent:** Monday, March 23, 2015 5:24 PM  
**To:** BAA Management  
**Cc:** [REDACTED]  
mhiggins; mhiggins; [REDACTED]; Sandercock, Deborah;  
Miles, David; Crosby, David, CDA; Weintraub, Max; [REDACTED]  
Inspection Counter; Luby, Oliver; Labayog, Edward; Flores, John; Hom,  
Donna  
**Subject:** Multiple Violations of the Implied Warranty of Habitability -  
Today: No warnings prior to disturbing asbestos / lead paint in a 1920s  
apartment building

**Martin Higgins**  
**TP Partners LLC (Owners)**  
**Vickie Corley**  
**The Apartment Group LLC (Property Management Company)**  
**1565 Madison Street Ste B Oakland, CA 94612**

**Joel Kelly / 'Mick'**  
**Bay Apartment Advisors (Property Management Company)**

**March 23, 2015**

**Multiple Violations of the Implied Warranty of Habitability at  
374 41st Street Oakland, CA**

**When I rent from you, you promise to provide me with a  
reasonably safe home.**

This has not been the case at 374 41st Street Oakland, CA for some time - most notably since the property was sold to TP Partners

LLC and management was taken over by The Apartment Group Inc

**Unfortunately, the change of property management from The Apartment Group Inc to Bay Apartment Advisors does not appear to have resulted in any changes.**

Instead, the numerous building code violations, health/safety issues, EPA Violations, OSHA Violations, and just a general loss of habitability is making me feel this property is becoming so unsafe that I will be forced to move out. That feels like constructive eviction and tenant harassment.

### **Breach of Contract – Covenant of Quiet Enjoyment**

When you send workers to the property with no advance warning, and I look out my window to find a contractor standing there (I live on the second floor)

I cannot quietly enjoy my home, when I have no idea when to expect to find workers standing on scaffolding directly outside of my bedroom window

*Implied in every residential lease is a covenant of quiet enjoyment, guaranteeing that tenants will be able to peacefully enjoy their homes. Civil Code § 1927. Where a landlord has substantially interfered with a tenant's peaceful enjoyment of a unit, the tenant can sue for back rent. Through use of expert appraisers, the court will determine if, and by how much, the rental value of the property declined due to the harassment. In Guntert v. City of Stockton, 55 Cal. App. 3d 131 (1976), for example, the court awarded a tenant back rent where the landlord gave several arbitrary eviction notices. Where a tenant is under constant threat of eviction, receives unlawful eviction notices, is verbally or physically threatened by a landlord, and is not benefiting from timely and proper repairs, the tenant can file a breach of contract claim against the landlord. Id. at 139.*

### **Constructive Eviction**

When I send my first email to Vickie on Sept 6th to ask about the 'demolition' taking place in Unit 2 and am ignored. And then have to send a SECOND email (and CC Nathaniel) on Sept 11th in order to get a response

When the week of 09/23/2014 - 09/29/2014 was so intensely stressful and disruptive due to the massive amount of work being done all at once (most of it with no notice and no permit), that I wasn't able to go to work.

When I am injured on the back stairs of my apartment building (fractured tailbone), and my requests for insurance information are ignored, and someone implies that I did it 'intentionally'

When Vickie turns to a contractor and tells them that I am 'crazy' and then encourages me to sue.. simply because I want to know why she has brought over painters to look at a building that has far more pressing issues (foundation, structural decay, etc) (videos of this incident)

When Vickie walks out of my apartment building telling Guillermo that I am a 'liar' and 'crazy', in earshot of neighbors (video/audio of this incident)

When Tenants are threatened by contractors (and have police reports / videos of the incident)

When neighbors are threatened by contractors (and have have witnesses / videos of the incident)

When contractors repeatedly show up to perform unsafe work with no notice and no permit, and the property manager hangs numerous (inaccurate) signs on my door

When I mention to a new contractor that someone removed part of a framing member (2x4) when installing the gas heater vent (without a permit), and his response is, "If you feel so unsafe, why don't you just move?" - within earshot of another tenant

**Well, this feels like landlord harassment.**

*If a tenant is forced out of a rent-controlled home because of landlord harassment, the tenant can sue for the cost to replace the rent-controlled home. At least one court has allowed a tenant to recover twenty years worth of increased rent. Where a landlord is motivated by a desire to get a rent-controlled tenant out from under rent control,*

- **March 05 and March 06, 2015 a scaffolding company was sent to 374 41st Street Oakland, CA. Tenants were not told that there would be workers putting up scaffolding (directly outside of bedroom windows) on those 2 days. This scaffolding has been up over close to 3 weeks.**

Tenants requested information about what work was about to be performed, both verbally and in writing - but have yet to receive any information.

There are concerns about the way scaffolding was put up (including a section that is being supported by a tree - the

post is actually in the 'V' of the tree.

Scaffolding supports were also placed next to / inside a section of the yard which is best described as a 'rapidly growing sinkhole' which needs to be investigated.

Unit 1's awning was removed (by Guillermo Lewis) and left the light bulb above Unit 1 exposed (water and electricity doesn't mix)

Workers showing up with no notice or explanation is stressful, and violating my rights as tenant.

- **March 23, 2015**  
**Synergy Employees were seen outside of 374 41st Street at 8:00am**

Once again, tenants were not given any notice that there would be workers on site, nor were we told what type of work was to be done.

At 2pm, I was notified by a tenant that these workers are now 'ripping down' the front exterior of the building.

If this is in fact 'asbestos remediation work' as claimed by Synergy employees; Tenants should have received **advance notification** prior to the start of work.

Sledgehammers and crowbars seem to be a 'demo' and not 'remediation'

**Synergy may be licensed and certified for lead abatement work,**

Synergy

28436 Satellite St.

Hayward , California 94545

510-259-1700

NAT-44700-1 05/22/2015

California State Contractors License #804759

California State Lead Abatement Cert. #A0481  
OSHA Reg. #868

**However, one (or both) of you have failed (again) to provide tenants with required notification and documentation PRIOR to the start of this (and all other) project**

[http://www2.epa.gov/sites/production/files/documents/sbco\\_mplianceguide.pdf](http://www2.epa.gov/sites/production/files/documents/sbco_mplianceguide.pdf)

**Violation of Hazard Education Before Renovation -  
TSCA 406(a) and (b)**

The final rule **requires that renovators and remodelers** notify the owner and **occupants** and **distribute the pamphlet "Renovate Right" before beginning renovations.**

For more information: Pre-Renovation Lead Education Rule 406(b) regulation\*

Firms are required to be certified, their employees must be trained (either as a certified renovator or on-the-job by a certified renovator) in use of **lead-safe work practices**, and lead-safe work practices that **minimize occupants' exposure to lead hazards must be followed.** You are doing work next to Tenant bedroom windows - most of which were left open; because we were **NOT NOTIFIED**

**Is the work being done Abatement or Assessment?  
Either way - tenants should have been notified. You are putting our health (and in the case of asbestos - our lives) at risk.**

<http://www2.epa.gov/lead/understanding-inspection-risk-assessment-and-abatement>

**I have contacted the EPA to determine if you (or Synergy) have filed the required paperwork**  
<http://www2.epa.gov/lead/lead-based-paint-activities-professionals#1>

**I have notified the EPA of your failure to provide tenants with the required 24 hour notice and 'renovate right' pamphlet (something that we should have received months ago)**

**Asbestos and Lead Paint Exposure:**

- In addition to knowing about the presence of asbestos, **tenants have a right to a livable home.**

**This includes avoiding exposure to asbestos fibers.** OSHA's regulations and the laws of most states help protect this right by placing certain duties on landlords.

OSHA's standards presume that buildings constructed before 1981 have asbestos-containing materials. As result, **building owners are responsible for locating where asbestos is located and how much is present.** That way they can't claim they don't know about asbestos. They have to

check and also follow standards for monitoring levels and containing asbestos. **This includes handling asbestos properly during repairs and renovations. This includes properly containing any asbestos risks.**

**When Nathaniel Reinke (I assume working as dual agent) of Hendricks-Berkadia / Bay Apartment Advisors arranged the sale of this (and numerous other Batavia) property to TP Partners LLC (an investment group which he admits to being part of), a 'Structural Pest Inspection' walk-through performed by Nathaniel, Martin Higgins, and the inspectors of all properties that were owned by the Batavias (including this one) In that 20+ page report (and during the walk-through) - the vast structural and habitability issues were acknowledged and noted. Many of these issues were also noted in tenant estopples,**

So even though the investors of the property are well aware of our issues, and the property management compan(ies) tasked with the duty of 'managing' these properties (in my opinion) have not only failed to provide tenants with a reasonably safe home, they performed renovations and demolitions that left the property even less habitable and safe.

### **The Implied Warranty of Habitability**

The property owner must:

- **Keep basic structural elements of the building, including floors, stairs, walls, and roofs, safe and intact**

*The gutter system has significant leaks.*

*Unit 4 has a buckling ceiling. Unit 3 has a patched spot from leaks. Both units have mold from structural decay*

*The front door is decayed and does not lock properly.*

*The back stairs were made unsafe and restricted use by a contractor hired by The Apartment Group Inc*

*A tenant was injured on these back stairs on 10/09/2014 - management has yet to acknowledge these injuries or provide insurance information for medical expense reimbursement.*

*The front stairs are not up to code*

*The walls have peeling lead paint and are developing large holes.*

*Tenant doors are not meant for outside use.*

*Part of a structural framing member (2x4) was removed when the heater vent was installed (without a permit) Foundation is crumbling, stucco is cracking, and rotting wood and framing members are visible from the sidewalk.*

- **Maintain all common areas, such as hallways and stairways, in a safe and clean condition**

*The interior hallway has a lightbulb that is hanging by 2 wires - this has been the case since 'repaired' by someone hired by The Apartment Group Inc in Oct 2014*

*The Apartment Group Inc failed to perform basic lawn care on this property between 09/26/2014 - 02/2015.*

*Broken chairs and trash have been laying outside of Unit 2 since 09/2014. Although management has been at this building numerous times, this has not been addressed.*

*Workers leave behind garbage and construction debris - but management does not clean up the mess.*

*Workers leave sawdust covering the hallway, and metal shavings from lock drill-outs, but management does not clean up the mess*

*Mailboxes were left exposed to rain between 09/26/2014 - 02/2015. Tenants had to arrange with the mailman to have deliveries brought inside to avoid theft and damage.*

*Vickie was notified of this several times in writing, and failed to move the mailboxes.*

*Tenants were not given an alternate means of egress while the back stairs were being 'repaired' - forcing us to step over workers while multiple treads/risers were missing*

- **Keep electrical, plumbing, sanitary, heating, ventilating, and air-conditioning systems and elevators operating safely**

*The main electrical panels are covered in rust, and are in a failing wooden housing unit.*

*The electric is not up to code and needs to be replaced*

*The plumbing is old, leaking, and needs to be replaced by a licensed plumber.*

*Heaters have not been inspected for years.*

- **Supply cold and hot water and heat in reasonable amounts at reasonable times**

*Tenants in other units have reported issues with plumbing not working and/or not having any hot water.*

- **Provide trash receptacles and arrange for trash pick-up**

*Tenants have had to deal with cleaning dog feces out of trash containers. This is not our job.*

- **Manage known environmental toxins such as lead paint dust and asbestos so that they don't pose a significant**

**danger**

*Management has ignored numerous requests for lead paint testing.*

*Gillikin Framing and Siding was hired as the 'primary contractor' for the demolition of unit 2 (no permit until stop work order issued), the demolition of the balcony (no permit), the 'replace/repair' of the stairs (no permit) - however Gillikin is not RRP Certified and did not follow any lead or asbestos safe work practices. Tenants were exposed to both dust and fibers, not to mention unsafe construction that was typically performed without a permit (or by exceeding the scope of the permit)*

*The units have significant mold issues. Tests have been performed , but no other information provided to tenants.*

- **Provide rental property that is reasonably safe from the threat of foreseeable criminal intrusions**

*Allowing the weeds outside of Unit 2 to grow in excess of 5 feet tall results in vermin intrusions - Skunks, rats, etc.*

*The exterior of the building has had numerous wasp infestations.*

**I will be sure to take plenty of photos and videos when I return home tonight, so I can add them to the ever increasing pile of documentation.**

**At some point, you'll receive the (ever expanding) list of Building Code Violations at 374 41st Street Oakland, CA**

**I will also be working with the tenants from the other Batavia buildings, to make sure they know their rights: Including the RAP rules.**

On Tue, Mar 17, 2015 at 4:02 PM, M

On Wed, Mar 18, 2015 at 9:21 AM, BAA Management

 wrote:

Hi All,

I wanted to send a quick update from regarding this request for repairs. We are interested in ensuring a safe and habitable living environment for you and we are prepared to move forward with the necessary repairs. While some of these repairs may be intrusive, we are prepared to make these repairs as quick and efficiently as possible.. Thank you in advance for your cooperation.

Regards,

Mick

Property Manager

Bay Apartment Advisors | Property Management

**From:** M Hennings [REDACTED]  
**Sent:** Tuesday, March 17, 2015 4:03 PM  
**To:** [REDACTED] Joel Kelly; Marty Higgins; BAA Management  
**Cc:** Chris Johnson; Claire Gelfand; Melissa Hennings  
**Subject:** Notice of Repairs needed at 374 41st Street Oakland, CA - Fifth and Final Notice

**This is the 5th request for repairs needed at 374 41st Street Oakland, CA**

**1st request - Feb 04, 2015**

**2nd request - Feb 16, 2015**

**3rd request - Feb 25, 2015**

**4th request - Feb 27, 2015**

**5th request - March 17, 2015**

It has now been over 30 days, and we (the tenants at 374 41st Street Oakland) have yet to receive a written response from anyone at The Apartment Group Inc regarding these repairs.

Many of these issues are indicated on the Structural Pest Inspection Report performed by Charles J Mayor & Company at the request of Nathaniel Reinke (Bay Apartment Advisors / Hendricks-Berkadia) in June and July of 2014.

Although it was noted in your inspection report that this property was built prior to 1978, and EPA Regulations require that all repairs to this property that may disturb lead paint be performed by an EPA Certified Lead Renovator, tenants have yet to received the mandatory notice, lead-safe work practices have not been followed, and none of the contractors involved with the work done at this point have been RRP Certified. This is a violation of Federal Law.

<image006.png>

In January of 2015, I hired an architect to perform an inspection of 374 41st Street, Oakland I hired a licensed architect/ licensed general contractor to perform an inspection of 374 41st Street Oakland with the primary purpose of determining the condition of the property, specifically relating to structural integrity, habitability and life safety issues.

He inspected the exterior of the property as well as the interiors of Units 1, 3, and 4 and provided me with a letter of findings which document the extent of the issues (some a result of work that was done between 09/05/2014 - 01/05/2015)

The findings included a number of serious habitability and life safety issues that need to be addressed. I noted a number of these issues in my request for repairs, and cited building codes where applicable.

It has been over 30 days, and we are still waiting on response from The Apartment Group Inc.

Although the building is now being managed by Bay Apartment Advisors, Vickie Corley appears to still be acting as 'management' - so I will assume issues such as these will be transferred to the new property management company.

The architect report will be submitted to the City of Oakland Building Inspection Department for further review. The Contractor's State License Board has been contacted as recommended, as has the Environmental Protection Agency.

Tenants are still waiting for any information regarding the scaffolding and netting that was hung around the perimeter of our building on 03/05/2015 and 03/06/2015, and how this scaffolding/netting addresses any of the requests for repairs that we made over 30 days prior.

One of the load bearing pieces of this structure has been propped by a tree that is against the foundation - the same tree noted as Item 11F

<image007.png>

**Notice of Repairs needed at 374 41st Street Oakland,  
CA FINAL NOTICE**

**February 04, 2015**

**TP Partners LLC (Owners)**

**The Apartment Group LLC (Property Mgmt Company) Bay  
Apartment Advisors**

**1565 Madison Street Ste B Oakland, CA 94612**

**Bay Apartment Advisors**

**Attention Vickie Corley / Martin Higgins/ 'Management'**

**There are numerous issues present at 374 41<sup>st</sup> Street, Oakland, CA.**

This letter is to bring some of those issues to your attention and request immediate remediation and repair.

1. Site Address: There is no building address on our building, and the apartment numbers are falling/have fallen off. Please resolve this immediately. **California Code of Regulations Title 24, Part 2, Volume 2.5 California Building Standards Commission R319.1** *(this was resolved, until the scaffolding and netting was hung around the building)*

2. **Drainage:** There is a hole in the gutter system that goes down the back/side of Unit 1. During heavy rains, water pours into a hole on the side of the building (Opal Street between the building and the sidewalk). This hole is currently 2-3 feet in diameters, at least a foot deep, and is consistently wet (even when it has not been raining). The bottom of this drain (if it was working) does not remove water away from the foundation of the building. This is a serious issue, which is evident by the rotting and bowing wood visible from the sidewalk on Opal Street. Unit 2 has the same issue, as well as water accumulation under the asphalt with potential foundation decay.

3. Foundation for the entire building requires a geotechnical evaluation because of the leaks and drainage issue as described above. **California Code of Regulations Title 24, Part 2, Volume 2.5 California Building Standards Commission, R401.3**

4. 2<sup>nd</sup> Floor units (3 and 4) landings: Neither unit has a landing at their back door. Landings are required. **California Code of Regulations, Title 8, Section 3235, Title 24, Part 2, Section 2-3303(i)(1) and (i)(2)**

5. 1<sup>st</sup> Floor units (1 and 2) landings: The back door landings for units 1 and 2 do not meet California Building Code requirements. **California Code of Regulations, Title 8, Section 3235, Title 24, Part 2, Section 2-3303(i)(1) and (i)(2)**

6. 2<sup>nd</sup> Floor Balcony Doors: The doors which lead out from units 3 and 4 onto the balcony area require a landing. There is no landing. **California Code of Regulations, Title 8, Section 3235.**

7. 2<sup>nd</sup> Floor Balcony Doors: These doors have been boards nailed across them, boarding them shut. They have been this way since September 23, 2014. This not only decreases a housing service included in the rent for these units, it removes an emergency escape and rescue opening from these units as required by law.

8. Front Door and Front Door Frame: The door is rotted and has peeling lead paint. The door frame is also rotted, and the locking mechanisms are held in place with precarious screws, nails, and pieces of wood. When there is heavy rain or moisture, these locks barely work. **California Code of Regulations, Title 24, Part 2, Section 2-3303(b)(1).**

9. Front Steps: These steps have risers, and require a handrail. No handrail is present and one must be installed. **California Code of Regulations, Title 8, Section 3214 (a). Stair Rails and Handrails**

10. Indoor Stairs: The inside stairs have loose handrails that need to be replaced or secured. **California Code of Regulations, Title 8, Section 3214 (c). Stair Rails and Handrails - Revision - these railings are not up to code and need to be replaced**

11. **Front of Building Lighting:** The front of the building (that includes a set of stairs) does not have any illumination. When the balcony was torn down on or about September 23 and 24, 2014, the only exterior light for the front of the property was removed and never replaced. This occurred close to 6 months ago.

12. **Interior Stairway Lighting:** The interior stairway has 2 lights; however, one light has been burnt out and hanging from exposed wires since on or about October 1, 2014.

13. **Lighting on the Back of the Property:** The back of the building, including the stairs and parking lot, has limited lighting that is solely controlled by a timer, and residents do not have the ability to manually turn on the rear property lights. Further, residents in Units 3 and 4, at the top of the stairs, do not have lights over their doors.

There is one floodlight attached to the roof above Unit 3 that provides the only source of light for the stairs and the parking lot. This light is inadequate. It does not illuminate half of the parking lot and tenants have been mugged in the parking lot. When this single light burns out, tenants have to wait for the property manager to replace/repair and must go without any lighting until it is replaced/repared.

**When scaffolding and netting was placed around the building on 03/06/2015 - it blocked the sole light source for the exterior of the building. This needs to be remedied immediately.**

**California Code of Regulations Title 24, Part 2, Volume 2.5  
California Building Standards Commission R303.6.1, R303.6.**

14. The owner, or its agents, have hired workers who have removed and installed new stairs in the back of the building without permits. Further, these stairs are hazardous and unsafe. For example: the steps are not uniform in shape/depth, the wood is not proper for the use, and, among other things, create a serious trip and fall hazard. **The plan to remove these back stairs will result in tenants on the 2nd floor having one exit through an interior hallway. The doors and this hallway are not fire rated.**

15. The owner, or its agents, have hired workers who have removed the front balcony without permits nor lead remediation. This is a severe health and safety hazard for tenants, guests, and anyone else entering the property.

16. The roof appears to have improper and piecemeal repairs. Proper repairs should be undertaken.

17. Structural Frame: The wood frame of the building is appears to be failing. This failure appears to be caused by the long term introduction of water into the wall cavities. This is a severe deficiency in the property.

18. Exterior Siding: The exterior stucco siding and horizontal wood siding are both deteriorated caused by water intrusion and lack of maintenance. This has led to other damage, including, but not limited to, possible foundation issues and the wood frame deterioration.

19. Exterior Siding- Holes: When the owner, and/or its agents, removed the balcony, they left gaping holes in the exterior siding. This has allowed water and moisture to get inside the walls, particularly during the storm that occurred in early December 2014. No attempts were made to cover or seal these holes prior to the December storm.

19. Building Furnaces: placement of furnace side-wall vents violate manufacture recommendations and code requirements relative to safe distances from window/door openings.

20. Electric Meters and Service Panel: the protective rooflet and housing for the service has panel has failed. Water has intruded the panel and caused severe rusting to the service panel. This is serious issue and must be repaired.

21. Windows: most if not all of the windows are the original wood sash, weighted windows and are in poor condition and many are inoperable. Operation failures appear to be due to wood swelling, deterioration, and/or loose sash components. Water has

appeared to have been able to intrude to the interior of the property from unmaintained and failing windows, including but not limited to, decaying sills.

22. The owner, and/or its agents, have failed to exercise due diligence in completing repairs and/or maintenance, if any, have been undertaken. This includes, but is not limited to, failing to obtain permits for the work done, and failing to remediate potential lead paint risks and/or hire RRP Certified Contractors.

23. The owner, and/or its agents, have failed to follow the appropriate industry repair, containment, or remediation protocols, related to repairs and/or maintenance, if any, that has been undertaken on the property.

Please fix these problems immediately.

374 41st Street Oakland, CA

Chris Johnson - Unit 1 Claire Gelfand - Unit 3 Melissa Hennings - Unit 4

According to the TPO, it is tenant harassment if a landlord does any of the following:

1. Interrupts, terminates or fails to provide housing services required by contract or by state, county or municipal housing, health or safety laws, or threatens to do so.
2. Fails to perform repairs and maintenance required by contract or health and safety laws.
3. Fails to complete and/or follow industry standards for repairs and maintenance.

5. Removes a housing service in an effort to get you to leave (for example, a parking space or an elevator.. in this case, back stairs and our balcony)

**From:** Melissa [REDACTED]  
**Date:** Wed, Feb 25, 2015 at 11:02 AM  
**Subject:** Notice of Repairs needed at 374 41st Street Oakland, CA - Third Notice  
**To:** [REDACTED]

Chris Johnson

**Date: Mon, Feb 16, 2015 at 1:29 PM**

**Subject: Notice of Repairs needed at 374 41st Street Oakland, CA - SECOND NOTICE**

To: [REDACTED]

Cc: Claire Gelfand [REDACTED], Chris Johnson [REDACTED]

12 days.

Second Notice of Repairs needed at 374 41st Street Oakland, CA

Please note - I have copies of the Pest Inspection (Structural Integrity) report from June and July 2014. We have also hired an independent contractor / architect to the property to perform further inspection/documentation of the existing issues.

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

From: **M Hennings** [REDACTED]

Date: Wed, Feb 4, 2015 at 10:58 AM

Subject: Notice of Repairs needed at 374 41st Street Oakland, CA

To: [REDACTED]

Cc: Claire Gelfand [REDACTED], Chris Johnson [REDACTED]

**Notice of Repairs needed at 374 41st Street Oakland, CA**

**February 04, 2015**

**TP Partners LLC (Owners)**

**The Apartment Group LLC (Property Mgmt Company)**

**1565 Madison Street Ste B Oakland, CA 94612**

**Bay Apartment Advisors**

**Attention Vickie Corley / Martin Higgins/ 'Management'**

There are numerous issues present at 374 41<sup>st</sup> Street, Oakland, CA. This letter is to bring some of those issues to your attention and request immediate remediation and repair.

1. Site Address: There is no building address on our building, and the apartment numbers are falling/have fallen off. Please resolve this immediately. **California Code of Regulations Title 24, Part 2, Volume 2.5 California Building Standards Commission R319.1** *(this was resolved, until the scaffolding and netting was hung around the building)*

2. **Drainage:** There is a hole in the gutter system that goes down the back/side of Unit 1. During heavy rains, water pours into a hole on the side of the building (Opal Street between the building and the sidewalk). This hole is currently 2-3 feet in diameters, at least a foot deep, and is consistently wet (even when it has not been raining). The bottom of this drain (if it was working) does not remove water away from the foundation of the building. This is a serious issue, which is evident by the rotting and bowing wood visible from the sidewalk on Opal Street. Unit 2 has the same issue, as well as water accumulation under the asphalt with potential foundation decay.

3. Foundation for the entire building requires a geotechnical evaluation because of the leaks and drainage issue as described above. **California Code of Regulations Title 24, Part 2, Volume 2.5 California Building Standards Commission, R401.3**

4. 2<sup>nd</sup> Floor units (3 and 4) landings: Neither unit has a landing at their back door. Landings are required. **California Code of Regulations, Title 8, Section 3235, Title 24, Part 2, Section 2-3303(i)(1) and (i)(2)**

5. 1<sup>st</sup> Floor units (1 and 2) landings: The back door landings for units 1 and 2 do not meet California Building Code requirements. **California Code of Regulations, Title 8, Section 3235, Title 24, Part 2, Section 2-3303(i)(1) and (i)(2)**

6. 2<sup>nd</sup> Floor Balcony Doors: The doors which lead out from units 3 and 4 onto the balcony area require a landing. There is no landing. **California Code of Regulations, Title 8, Section 3235.**

7. 2<sup>nd</sup> Floor Balcony Doors: These doors have been boards nailed across them, boarding them shut. They have been this way since September 23, 2014. This not only decreases a housing service included in the rent for these units, it removes an emergency escape and rescue opening from these units as required by law.

8. Front Door and Front Door Frame: The door is rotted and has peeling lead paint. The door frame is also rotted, and the locking mechanisms are held in place with precarious screws, nails, and pieces of wood. When there is heavy rain or moisture, these locks barely work. **California Code of Regulations, Title 24, Part 2, Section 2-3303(b)(1).**

9. Front Steps: These steps have risers, and require a handrail. No handrail is present and one must be installed. **California Code of Regulations, Title 8, Section 3214 (a). Stair Rails and Handrails**

10. Indoor Stairs: The inside stairs have loose handrails that need to be replaced or secured. **California Code of Regulations, Title 8, Section 3214 (c). Stair Rails and Handrails - Revision - these railings are not up to code and need to be replaced**

11. Front of Building Lighting: The front of the building (that includes a set of stairs) does not have any illumination. When the balcony was torn down on or about September 23 and 24, 2014, the only exterior light for the front of the property was removed and never replaced. This occurred more than 4 months ago.

12. Interior Stairway Lighting: The interior stairway has 2 lights; however, one light has been burnt out and hanging from exposed wires since on or about October 1, 2014.

13. Lighting on the Back of the Property: The back of the building, including the stairs and parking lot, has limited lighting that is solely controlled by a timer, and residents do not have the ability to manually turn on the rear property lights. Further, residents in Units 3 and 4, at the top of the stairs, do not have lights over their doors.

There is one floodlight attached to the roof above Unit 3 that provides the only source of light for the stairs and the parking lot. This light is inadequate. It does not illuminate half of the parking lot and tenants have been mugged in the parking lot. When this single light burns out, tenants have to wait for the property manager to replace/repair and must go without any lighting until it is replaced/repared. **California Code of Regulations Title 24, Part 2, Volume 2.5 California Building Standards Commission R303.6.1, R303.6.**

**Updates - When the scaffolding and netting was placed around the building, it blocked the only exterior light for the back stairs and parking lot.**

14. The owner, or its agents, have hired workers who have removed and installed new stairs in the back of the building without permits. Further, these stairs are hazardous and unsafe. For example: the steps are not uniform in shape/depth, the wood is not proper for the use, and, among other things, create a serious trip and fall hazard. **The plan to remove these back stairs will result in tenants on the 2nd floor having one exit through an interior hallway. The doors and this hallway are not fire rated.**

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appeared to have been able to intrude to the interior of the property from unmaintained and failing windows, including but not limited to, decaying sills.

22. The owner, and/or its agents, have failed to exercise due diligence in completing repairs and/or maintenance, if any, have been undertaken. This includes, but is not limited to, failing to obtain permits for the work done, and failing to remediate potential lead paint risks and/or hire RRP Certified Contractors.

23. The owner, and/or its agents, have failed to follow the appropriate industry repair, containment, or remediation protocols, related to repairs and/or maintenance, if any, that has been undertaken on the property.

Please fix these problems immediately.

374 41st Street Unit 4

**Smith, Sandra M**

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**From:** M Hennings [REDACTED]  
**Sent:** Monday, March 30, 2015 11:34 AM  
**To:** Oakland Tenant  
**Cc:** Hom, Donna; Taylor, Marie (Allene); Miles, David; Sam Levin; Crosby, David, CDA; Kalb, Dan; Luby, Oliver; Low, Tim; [REDACTED] Weintraub, Max  
**Subject:** 374 41st Street Timeline: Date 09/19/2014 Incident: OSHA and EPA issues

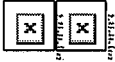
**1920s Building and lead safe work practices are not being followed**

**Workers are balancing a table saw between 2 plastic chairs (and have power cords stretched over water)**

**From:** Melissa [REDACTED]  
**Date:** September 19, 2014 at 9:07:47 AM PDT  
**To:** [REDACTED]  
**Subject:** Construction Workers using our chairs as a modified saw horse at 374 41st St



**09/19/2014 - Construction debris and garbage is scattered around our building and parking lot each day**



**The green p/u truck has been in the lot ever since the work started.  
Unsure of who owns the white one (Ford F150, License 8U93410 )  
The white truck is blocking the sidewalk, and parked in a tenant's parking spot**



## Smith, Sandra M

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**From:** M Hennings [REDACTED]  
**Sent:** Monday, March 30, 2015 11:53 AM  
**To:** Hom, Donna; Taylor, Marie (Allene); Miles, David; Sam Levin; Crosby, David, CDA; Kalb, Dan; Luby, Oliver; Low, Tim  
**Subject:** Emails to Ed and Dennis on 09/17/2014

From: Melissa [REDACTED]  
Date: Wed, Sep 17, 2014 at 10:57 AM  
Subject: Fwd: 374 41st street  
To: "elabayog@oaklandnet.com" <elabayog@oaklandnet.com>

Hi,

I have been logging what is taking place at my unit, but I would like a little more information on what I can expect.

- The stop work order was posted on Monday afternoon
- An elevator permit was posted in the window on Monday evening
- The stop work order was removed by the worker on Tuesday morning, and construction resumed. The elevator permit remains. When I came home last night, there was no stop work order. Just the elevator permit (from another building and with a different company name)
- This morning at 7:50am, the worker's truck was in the driveway. At 7:55am, hammering started. At 8:30am, a second truck appeared in the driveway.

When can we expect enforcement of this stop work order? It appears that they plan on continuing (and completing) the work without a permit, and additional work is supposed to start in 2 weeks (according to an email I received)

What is the normal process? Who do I contact if they start working before or after the legal hours, or on Sundays?

How do I find out when/if any other permits have been pulled on this property, as our primary entry has stairs that are rotting, breaking, and generally unsafe. I do not think a permit was ever pulled for these stairs when they were first constructed.

Thank you  
374 41st Street Oakland

**Smith, Sandra M**

---

**From:** M Hennings [REDACTED]  
**Sent:** Monday, March 30, 2015 11:57 AM  
**To:** Oakland Tenant  
**Cc:** Hom, Donna; Taylor, Marie (Allene); Miles, David; Sam Levin; Crosby, David, CDA; Kalb, Dan; Luby, Oliver; Low, Tim  
**Subject:** 374 41st Street Timeline: Date 10/01/2014 Incident: Work performed in the 'inner hallway'

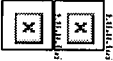
I've got some before photos. Not sure if this needed a permit.

**10/01/2014 - 8:00pm - Work done to the 'inner hallway'**

No notice was given that work was to be done in the 'inner hallway' of the building.  
At 8pm, we came home to find this:



**Light in the main entry is now hanging from the ceiling by 2 wires.**



**Smith, Sandra M**

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**From:** M Hennings [REDACTED]  
**Sent:** Monday, March 30, 2015 11:59 AM  
**To:** Oakland Tenant  
**Cc:** Hom, Donna; Taylor, Marie (Allene); Miles, David; Sam Levin; Crosby, David, CDA; Kalb, Dan; Luby, Oliver; Low, Tim; Weintraub, Max; Morris, [REDACTED]  
**Subject:** 374 41st Street Timeline: Date 10/2/2014 Incident: Gillikin Construction removes chunks of stucco

**10/02/2014 - 8:00am - Gillikin Worker shows up again.**

***Burgundy Truck – License Plate #BM13321 – Raiders Sticker on the front hood.***



**10/02/2014 - 6:00PM - I returned home to discover 1 large chunk of stucco had been cut off the front of the building, and a second large chunk had been cut out (but not removed yet).**



**Chunk of stucco removed from the front of unit 1.**



**Smith, Sandra M**

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**From:** Low, Tim  
**Sent:** Tuesday, March 31, 2015 8:07 AM  
**To:** M Hennings  
**Cc:** Taylor, Marie (Allene); Miles, David; Sam Levin  
**Subject:** RE: 374 41st Street Timeline: Date 09/21/2014 Incident: Unit 2 leak covered with asphalt

Do you see any more puddle or water accumulation in or near the same spot?

**From:** M Hennings [REDACTED]  
**Sent:** Monday, March 30, 2015 11:43 AM  
**To:** Oakland Tenant  
**Cc:** Hom, Donna; Taylor, Marie (Allene); Miles, David; Sam Levin; Crosby, David, CDA; Kalb, Dan; Luby, Oliver; Low, Tim  
**Subject:** 374 41st Street Timeline: Date 09/21/2014 Incident: Unit 2 leak covered with asphalt

**Was this leak ever inspected? It existed for months (maybe a year) and one day workers covered it with asphalt**

**09/21/2014 - This was never 'fixed'. It was simply covered up**



**Todd, Amber**

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**From:** Patrick Burger [REDACTED]  
**Sent:** Tuesday, March 31, 2015 1:29 PM  
**To:** Permits; Office of the Mayor; City Administrator's Office; [REDACTED]  
[REDACTED] Marc Branco  
**Cc:** Low, Tim; Isaac Wilson; Miles, David; Inspection Counter; csaxton@dir.ca.gov; Max Weintraub; Flores, John; Hom, Donna; Luby, Oliver; CDA Crosby David; [REDACTED]  
**Subject:** 374 41st Street Oakland  
**Attachments:** 374 41st Street LOF .pdf; PHOTO APPENDIX 374 41st St.pdf; Photo 1.jpg; Photo 4.jpg; Photo 18.jpg; Photo 21.jpg; Photo 29.jpg

To Whom It May Concern:

There have been numerous, serious issues with proper permits, defective contractor work, failure to implement EPA required RR&P standards, endangering inhabitants, and life safety issues, surrounding the subject 'project'. This ongoing disaster clearly underlines the dysfunction of our governmental bodies to date.

Owners want tenants out, and are trying to 'upgrade' building, to capitalize on the market. Problem is, they are only doing 'cosmetic' fixes (and quite poorly at that) and are NOT addressing key structural, decay and other habitability issues.

I was retained by one of the tenants (Unit # 4 - Melissa Hennings), to perform an assessment of the conditions at the subject property. On January 10, 2015 I visited the site and examined the various components of the building. I issued a Letter Of Findings on February 10, 2015.

**I have attached a copy of this LOF for your review.** Whether it is ignoring the RR&P requirements of the EPA, violating permit requirements and/or doing portions of work without a permit, failure to do work that meets MINIMUM standards of the industry, exposing building occupants to dangerous life safety conditions, etc.

The fact that this work continues in such an improper and illegal fashion - while the City fails to stop such work - is an abomination. I urge someone with the City of Oakland step up to the plate and do what is right.

In my estimation, all work should be stopped, and elements of my report relative to foundation problems, framing problems, and other serious life safety issues should be carefully reviewed by some building official. The City of Oakland has the power to require the Owners of the subject property, provide an engineer and/or architects report as to necessary repairs required to first make the structure safe.

The CSLB and The EPA share in this problem. The contractor of record - Gillikins Construction - did not have a valid RR&P certification, and another involved contractor - Synergy - who does have an RR&P certification, however, the ongoing work has not followed any of the EPA protocols. I did notify and file a complaint with the EPA re: Gillikins, but have not yet received a response.

I'm hopeful that someone at City Hall and/or Building/Planning can step up and do what is right, what is necessary and what is required by our laws governing these issues. With my original Letter Of Findings, I've included the complete photo index, and some of the photos. All photos are available if you like.

Without enforcement of our existing laws, rules and regulations...the citizens are left unprotected. This subject building, and its myriad life safety issues, the environment in which the tenants must live, and the manner in which work is allowed to continue - does not speak well of the City of Oakland.

I do projects throughout the bay area, and most if not all of the other building departments I've worked with, would have already dealt with this matter in a responsible fashion - e.g. shut down the work and require an engineers analysis be performed, and their recommendations - stamped and signed - enacted. I've not seen that to date...from the City of Oakland.

The contractors state license board is remiss, when it allows such an entity as Gillikin's to cut into a building without regard to proper and lawful procedures.

It seems that the work has been allowed to continue, despite the tenants continuing complaints, and in that sense makes this entire matter so frustrating. I've not seen such blatant construction deficiencies, missing/no permits, and human endangerment issues ignored for so long.

So...EPA.....CSLB....City of Oakland....how about enforcing our laws?

Best regards,

**Patrick J. Burger**

Architect, General Contractor  
Certified ICC, CREIA & ASHI Inspector  
President, San Francisco-Peninsula Chapter CREIA

mobile: [REDACTED]  
Toll free: 888-292-8828  
Fax: 415-817-9969  
[REDACTED]

## ***Architectural Inspection Services***

**441 Banbury Street Hayward, CA 94544**

**[www.architectinspect.com](http://www.architectinspect.com)**  
**[www.solerabuilders.com](http://www.solerabuilders.com)**

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patrick@architectinspect.com Architect Lic. C-19988  
www.architectinspect.com General Contractor Lic. B-766169

February 16, 2015

Melissa Hennings  
374 41<sup>st</sup> St Unit # 4  
Oakland, CA

Subject: 374 41<sup>st</sup> Street Oakland –Property Inspection - Letter of Findings

To Whom It May Concern:

On January 10, 2015, commencing @ 11:00 am, I inspected the subject property, with the primary purpose of determining the condition of the property, specifically relating to structural integrity, habitability and life safety issues. The subject property is a 2,824 sq ft, two-story, wood framed, multi-occupancy structure comprising four individual units - originally constructed in 1920. The building has a flat roof with raised, perimeter parapet, and concrete perimeter - and interior - foundation walls and footings. Flooring at both stories is comprised of wood floor sheathing over wood joists. Original interior wall finishes are of plaster and lath, with some past and recent repairs of Gypsum Wall Board. The front and left sides of the building have a Stucco exterior finish, and the right and rear sides have an exterior, horizontal, wood siding finish.

For orientation purposes, the front refers to that portion of the building that faces towards 41<sup>st</sup> Street – the entry wall [Photo 01]; all subsequent bearings are relative to this front elevation – i.e. right side, left side and rear. Units # 1 and # 2 are at the first story, with Unit # 2 on the right side, and Unit # 1 on the left side. Units # 3 and # 4 are at the second story, with Unit # 4 on the right side, and Unit # 3 on the left. All units run from the front to the rear of the building, at each story, and all four units have entry access/egress at both the front and at the rear of the building. Unit # 2 was not occupied and not accessible, and therefore, not inspected\*. Units # 1, 3 and 4 were all occupied, accessible, entered and inspected.

This inspection was not technically exhaustive. This inspection was limited by time and to a visual inspection only. There were no investigative openings made. A more technically exhaustive investigation may identify conditions not expressed in this Letter of Findings.

The following designation within the text of this Letter Of Findings - e.g. [Photo 99] – indicates which photo is referenced, and included in the attached Photo Appendix.

**The following issues were identified:**

- 1) **Front Deck:** A previously existing, wood framed, deck – servicing the two, second story units - had been recently removed at the time of this inspection [Photo 02]. This work - by the general contractor, Gillikin Construction - was done without a permit. The City of Oakland had posted a Stop Work Notice for this deck replacement work before the deck removal was completed [Photo 03]. Portions of the deck framing, requiring removal due to decay, were still in place at the time of this inspection [Photo 04]. The front, right column (Photo 05) - stucco covered, wood framed, post assembly (previously supporting deck) has settled due to decayed framing components, and settlement of the concrete porch itself. Stucco has failed/offset at base [Photo 06].
- 2) **Rear Stairs:** The existing, recently repaired, rear stairs [Photo 07] - which serve as a required means of egress for Units # 3 and 4, were examined, and found to be hazardous and unsafe at the time of this inspection. Railings, treads, risers, and guardrails all fail to comply with current code and industry standards. Treads are not an exterior grade, were not sealed or otherwise weather protected, and tread depths varied by as much as 2+ inches [Photo 08]. Nosing's exceed the 1 ¼" permitted by code, by greater than 1 ½" [Photo 09]. Riser height varied by greater than 1" – where only a 3/8" variance is permitted [Photos 10 & 11]. A RESTRICTED USE notice [Photo 12] was posted by the City of Oakland, on October 10, 2014 at the rear stairs. This work appears to have been performed absent a permit. The stairs, as reconstructed by the contractor and left at the time of the STOP WORK Notice, are a hazard and a potential life safety issue, for inhabitants and guests of Units # 3 and 4.

\*1 Please note, there was a Permit issued on 9/16/14, by the City of Oakland – to Clyde & Gail Batavia, Owner/Applicant - for a 'Minor Kitchen Remodel' which was issued for Unit # 1, but the remodeling work observed through the windows was actually at Unit # 2, and this permit was posted at the rear door of Unit # 2. Related Permits: RE1402037 and RP1401751

3) **Lead & Asbestos:** Due to the age of the original structure (1920), any work performed (removal of siding, paint, finishes) is required to meet the EPA Lead Safe requirements, and must be performed by a certified Renovation, Repair and Painting Contractor. I checked the EPA database for certified RR&P contractors, and the contractor who performed the work to date, Gillikin Construction, has no such certification from the EPA [Photo 13]. Failure to have this certification, when performing repairs on older buildings, subjects the contractor to fines of up to \$37,000 per day, and subjects the buildings occupants to potentially hazardous, unhealthy conditions.

4) **Roof System:** The roof itself was not accessible/accessed, however, we did note newer Galvanized Sheet Metal (GSM) flashing components at the top of the roof's parapet walls. Observation of the improper, and non-uniform placement of GSM parapet cap flashing indicates that relatively recent repairs to the roof covering have been performed [Photo 14]. Such repairs, based on the GSM flashing installation observed, as well as the defective roofing membrane installation running up the parapet wall, are suspect, and after viewing anomalies in the newer roof covering via Google Earth (Google photos taken in October, 2014), further investigation is warranted.

5) **Foundation & Framing System:** Our inspection of the foundation system was limited to those portions we could observe from the exterior, perimeter of the building, and from a section of the interior foundation and framing members which was visible from one of the large foundation vent openings, at the left side of the building, closest to the front elevation. Based on general observations of the deformation, decay and/or failure of interior units walls, ceilings and floors, it is clear that there are some settlement issues affecting the foundation. The framing deficiencies observed were serious failures of the wood framing components, and were observed at all four elevations of the building – such deficiencies were in addition to the sill span issue over the vents, as noted below. Such failure is attributed to the long-term introduction – from roof and siding failures – of water into the wall cavities. Another area of concern is the type and placement of vent openings that occur in the concrete foundation walls. There are at least six vent openings that are approximately 36" wide, and placed such that the bearing sill plates spanning the vent openings - meant to bear on a solid concrete foundation - are deformed and failing, since the sill plates are not intended to take such loads over the 36" span. [Photo 15]. This means the wall framing relies on a double sill/sole plate to span this void (occurs at all vent opening locations). At the left side elevation, at that vent-opening closet to the rear of the building, the plates are deteriorated, decayed, depressed and close to failure. Less affected, decayed/deteriorated, sill/sole plates were observed at the other vent openings. The left rear corner of the structure (Unit # 1) appears to have settled and a hole in the siding at the rear elevation, by the corner allowed us to observe the absence of any concrete footing below this wall. [Photos 16 & 17]. We also noted a framing member (2x4 stud) was cut and a portion removed [Photo 18 – top of cut stud is to the right and at bottom corner of the sidewall vent] to allow for the installation of the sidewall vent for the newly installed furnace (installed under the 'Minor Kitchen Remodel' Permit – Furnace installation was not permitted). Removal of any of the existing, required framing members seriously compromises the structural integrity of the dwelling. At the right front corner of the dwelling, there is a cantilevered section approximately six feet wide, and approximately eighteen inches deep [Photo 19], that continues up to the roofline. One of the joists has literally deteriorated away [Photo 21], leaving this cantilevered construct in jeopardy of eventual collapse – as evidenced by the mold and decay on the visible, interior, supporting joist [Photo 22]. These conditions – along with decayed, collapsed, missing siding - indicate the need for an immediate structural analysis, prior to any further property improvements. Further, an area historically known for water ponding against the foundation (at the rear elevation, interior left corner behind Unit # 4 stairs), was not properly addressed in recent repairs performed [Photo 08]. The grade sloped back to the concrete foundation wall, and the repair performed does not address the issue of water surcharge at the foundation walls. The contractor simply placed asphaltic concrete to create a slope away from the foundation [Photo 23]. The A/C paving does not prevent water from ponding below the A/C paving - which was not sealed - affecting the foundation. The A/C paving was placed such that it encapsulates the rear stair support posts [Photos 24 & 25] which will lead to early decay and failure of the stair support posts. The stair post bases - being encapsulated with the newly applied A/C Paving, as placed by the contractor, contradicts industry standards and code requirements for bearing post placement.

6) **Exterior Siding – Stucco:** Stucco deficiencies (cracks and spalling) basically relate to either settlement issues or the decay and deterioration of the underlying framing members. All such cracks and spalling [Photos 27 & 28] of the stucco finish subsequently allow further water intrusion into the wood framed cavities. Many of these cracks penetrate fully through the stucco, allowing water intrusion into the exterior walls, wood framed cavities [Photo 26].

7) **Exterior Siding – Horizontal Wood:** The wood siding has not been maintained, or serviced in the past several decades – or longer – based on the general condition of the siding, and the sheer number of loose, dislodged, broken, deteriorated and/or missing pieces observed [Photos 29 & 30]. Additionally, most openings in the walls are not flashed at all [Photos 31 & 32], and in the few locations where some form of flashing was installed, it is improperly installed and does not prevent water from entering the framing cavities. The wood siding deficiencies allow water directly into the exterior wall framing cavities, and ample evidence of long term decay and wood rot was observed at the exterior wall wood framing components. *Refer to 5) Foundation & Framing System, above, for framing deficiencies.*

\*1 Please note, there was a Permit issued on 9/16/14, by the City of Oakland – to Clyde & Gail Batavia, Owner/Applicant - for a 'Minor Kitchen Remodel' which was issued for Unit # 1, but the remodeling work observed through the windows was actually at Unit # 2, and this permit was posted at the rear door of Unit # 2. Related Permits: RE1402037 and RP1401751

7) *Continued* Vent termination, for the recently installed furnace in Unit # 2, and for the kitchen hood exhaust, are not properly installed, and are not properly flashed, or otherwise integrated with the buildings exterior siding – but rather simply placed directly to the siding surface, absent any caulking [Photos 29 & 31].

8) **Mechanical Systems:** Existing furnaces have not been serviced for a long period of time – likely measured in decades. The placement of furnace sidewall vents violates the manufacturers recommendations, and code requirements relative to safe distances from window/door openings. In this instance vents are placed between and at the bottom of closely spaced, operable windows [Photo 29].

9) **Electrical Systems:** The common area electrical service entry for all four units, is located at the rear elevation, right hand side, and while the meters and service panels were originally protected by a small rooflet and housing [Photo 33], the roof component has apparently failed a long time ago [Photo 34], and the resultant water intrusion has severely rusted the service panels [Photo 35]. Needless to say, water trickling through the electrical service panels is a serious issue. There were a number of open, unprotected receptacles throughout the dwellings [Photo 54]

10) **Plumbing Systems:** The water heaters, found in the kitchens of the units, are not bonded, and given the proximity of exposed metal piping, pose a life safety threat. Venting for these systems is also problematic. Joints were typically not mechanically fastened, or taped, and in unit # 4 the horizontal run of the exhaust vent pipe has a negative slope [Photo 36]. Additionally, the horizontal to vertical connection was field cut (not a standard connector) and not taped or sealed – additionally the single wall flue allows condensation, and the remains of water deterioration (efflorescence) can be readily observed at the bottom of the horizontal flue [Photo 37]. Both conditions can lead to back draft into the habitable space of non-combusted, toxic gases. Some water lines due to valve or other, unknown issues, did not operate at two units' bathroom sinks. Other water line supply valves are corroded and/or leaking [Photo 38]. Typical condition at wall to bathtubs [Photo 20]

11) **Windows:** Most of the windows are original, wood sash, weighted windows, and all are in poor condition [Photo 39]. A large number of these windows have failed and/or disintegrated wood sills. Window sills at the interior, are in various stages of deterioration, due to water intrusion at windows. [Photos 40 & 41], and the glazing compound (that holds the glass in place) is missing/failing at all such wood windows [Photos 42 & 43]. Many windows meant to be operable are actually inoperable, due to wood swelling, deterioration, and/or loose sash components (wood joints opening up).

12) **Doors:** Some exterior doors, those at the rear elevation, are not rated exterior doors and/or have non-tempered glass panels [Photo 44]. Tempered glass is required in any glazed, exterior door. Interior doors were in poor condition, with some inoperable or barely so. Missing door hardware was systemic at both interior and exterior doors. Entry door lockset shown [Photos 45 & 46].

13) **Interior Finishes:** Those interior walls and ceilings, comprised of the original plaster and lath finish, which constitute approximately 95% of the interior wall and ceiling finishes – had extensive cracking and the plaster has actually broken away at a number of locations (again due to settlement and moisture/wood decay issues). Serious voids were noted in Unit # 1 (particularly the front bedroom walls) and in Units # 3 and # 4, at various locations along the exterior walls. Walls - [Photos 47, 48, 49, 50, 51, 52 & 53]. Ceilings - [Photos 54, 55, 56, 57 & 58]. Some recent sheetrock installation (at the interior side of the front wall – where the original deck has been removed) has been left exposed to weather where the deck and siding removal has not been completed [Photo 59]. No temporary weather protection was in place at the front wall openings, contrary to industry standards [Photo 60]. Various molds were observed, in kitchens and bathrooms [Photo 58]. Floor finishes are deteriorated to the extent that large areas of the finish flooring are actually missing [Photo 61].

14) **Additional Life Safety Issues:** The front wall door openings to the removed deck, at Units # 3 and # 4, were not properly or safely closed off, particularly Unit # 4, where the door is an in-swinging door. Some Smoke Alarms appeared to be quite old, and their proper operation is suspect. Some combination alarms (smoke and CO) were in place, but combination alarms are not recommended. Placement of alarms was inconsistent with code and manufacturers recommendations. The tread spacing at the rear stairs of Unit # 4 is inconsistent, and poses a slip and fall hazard. Mold and decay issues are prevalent, at both the exterior and interior, and the interior mold conditions may contribute to tenants health in a negative way. One of the Water Heaters has TPRV (Temperature Pressure Release Valve) piping termination directly to the kitchen floor, where it is required to be routed to the exterior. A discharge - within a highly habitable space within the dwelling – could prove problematic to occupants, and quite destructive to floor and ceiling finishes below.

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## Summary of Findings

There were a number of serious habitability and life safety issues affecting this property. Based on the findings noted above, I recommend the following:

No further work should be performed, no permits applied for or granted, until such time that the following analysis have been performed, by the appropriate licensed individuals.

A Pest Control inspection should be performed, prior to any repairs, to help determine extent of any pest issues, and help in determining wood decay and fungal conditions that need to be addressed.

A Geotechnical Engineer should be retained to provide a report and recommendations for the bearing capacity of the soils, perform a floor level survey – to determine extent and areas of settlement, and provide recommendations for the repair/replacement of concrete footings and the installation of sub-grade drainage, and possible tight line collector system for the roof runoff.

An Architect and Structural Engineer should be retained to assess the overall integrity of the structure, as in its current condition it is doubtful that the building could successfully resist a moderate, lateral (on the longitudinal axis) seismic event. This assessment would necessarily include quantification of those areas of wood framing and siding that need to be replaced, proper repair recommendations for the over-spanned vent openings, engineered drawings for all such repairs, including the rear stairs and any replacement deck at the front of the building. Details for repair of interior finishes at walls and ceilings, windows and doors would be provided as part of this assessment.

The Mechanical, Electrical and Plumbing systems should be inspected, serviced and brought up to code by the appropriate licensed individuals. There are serious life safety (Mechanical and Electrical) and health issues (Plumbing), relating to deficiencies in these systems.

The General Contractor retained to provide demolition, repairs, and reconstruction of windows, siding and paint should be an EPA certified RR&P contractor, and a reputable, experienced contractor. Of all of the work performed since October, not a single aspect of the work in place is properly placed or finished. I recommend notifying the Contractors State License Board, to alert the Board to the deficiencies in this contractors (Gillikin) work product, and the dangers to the public should such a contractor be allowed to continue as a general contractor. In any communication with the Board, please feel free to include a copy of this letter of findings.

It cannot be overly stated...the current condition of this structure demands immediate, appropriate remedial measures, as indicated above. Anything less is unacceptable to the health and safety of any tenants, their guests and the general public.

Please feel free to call with any questions you may have as regards the findings of this inspection.

Sincerely,

Patrick J. Burger

\*<sup>1</sup> Please note, there was a Permit issued on 9/16/14, by the City of Oakland – to Clyde & Gail Batavia, Owner/Applicant - for a 'Minor Kitchen Remodel' which was issued for Unit # 1, but the remodeling work observed through the windows was actually at Unit # 2, and this permit was posted at the rear door of Unit # 2. Related Permits: RE1402037 and RP1401751



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## PHOTO APPENDIX - 374 41<sup>st</sup> Street Oakland

Photo 01	Front Elevation	Photo 02	Side view, front elevation
Photo 03	Stop Work Notice	Photo 04	Remaining decayed framing at deck
Photo 05	Right front corner of entry porch	Photo 06	Close Up of porch corner
Photo 07	Rear Elevation, Stairs	Photo 08	Unequal tread dimensions
Photo 09	Excess Nosing dimension	Photo 10	Unequal Riser height
Photo 11	Unequal Riser height	Photo 12	Rear Stairs – Do Not Use Notice
Photo 13	No EPA RR&P Licensed Contractor	Photo 14	Roof Parapet Membrane & Flashing
Photo 15	Over-spanned Vent Opening	Photo 16	Void at Rear Elev. – No Footing
Photo 17	Void at Rear Elev. – No Footing	Photo 18	Siding Holes, Cut Framing Member (Stud)
Photo 19	Decayed Framing/Siding @ Cantilever	Photo 20	Decay at Tub surround
Photo 21	Decayed Framing/Siding @ Cantilever	Photo 22	Close Up - Decayed Framing/Siding @ Cantilever
Photo 23	A/C Paving fill @ slope to foundation	Photo 24	Post imbedded in A/C Paving
Photo 25	Close Up - Post imbedded in A/C Paving	Photo 26	Opening in stucco cracks
Photo 27	Deck settling - open joint	Photo 28	Close Up - Deck settling - open joint
Photo 29	Excessive holes in siding	Photo 30	Failed Siding
Photo 31	Surface Mounted Flashing w/ void at top	Photo 32	Surface Applied Flashing – Not Permitted
Photo 33	Deteriorated Electric Panel Enclosure	Photo 34	Close Up – Decay @ Electric Panel Enclosure
Photo 35	Rusting Service Panels	Photo 36	Negative Slope at Vent
Photo 37	Open Joints, Efflorescence	Photo 38	Leaking Plumbing, Valves frozen shut
Photo 39	Decay At Exterior Window Sills	Photo 40	Decay at Interior Window Sills
Photo 41	Deterioration at Interior Window Sills	Photo 42	Deterioration at Exterior Window Sashes
Photo 43	Deterioration at Exterior Window Sashes	Photo 44	Exterior Door No Tempered Glass
Photo 45	Decay/Deterioration @ Entry Door	Photo 46	Close Up of Decay/Deterioration @ Entry Door
Photo 47	Failure/Decay @ Interior Face of Ext Walls	Photo 48	Failure/Decay @ Interior Face of Ext Walls
Photo 49	Failure/Decay @ Interior Face of Ext Walls	Photo 50	Failure/Decay/Mold @ Interior Face of Ext Walls
Photo 51	Failure/Decay @ Interior Face of Ext Walls	Photo 52	Failure/Decay @ Interior Face of Ext Walls
Photo 53	Decay/Mold @ Interior Face of Ext Walls	Photo 54	Open Electrical Receptacle
Photo 55	Failure/Decay @ Ceilings	Photo 56	Failure/Decay @ Ceilings
Photo 57	Failure/Decay @ Ceilings	Photo 58	Failure/Decay/Mold @ Ceilings
Photo 59	Decayed Framing/Unprotected	Photo 60	Decayed Framing/Unprotected
Photo 61	Deteriorated Finish Flooring		

