

Notice of Confidentiality and Limited Use

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Any use of this information by the Applicant or their agents to further intimidate, harass, or retaliate against the residents of 2421/2425 Durant Ave will be documented as a separate and willful violation of Berkeley's **Anti-Harassment Ordinance** and may result in additional statutory penalties

Date: March 4, 2026

To: hac@berkeleyca.gov

Subject: URGENT: Supplemental Communication for March 5, 2026 – Evidence of Systematic Fraud on Safety Mandate of & Endangerment at 2421/2425 Durant Ave.

Dear Chair Bell, Vice Chair Micael, and Members of the Commission,

Please include this correspondence in the **Supplemental Communications** packet for the **March 5, 2026** meeting. I am writing to alert the Commission to a state of **Active Criminal Non-Compliance** at 2421/2425 Durant Ave.

I previously presented evidence of this 19-unit vs. 15-unit fraud at the **ZAB Hearing on Oct 9, 2025**, and the **City Council Appeal on Feb 23, 2026**. Despite the City Council's decision to allow project **ZP#2024-0162** to proceed, the applicant continues to prioritize developer profit over human life by maintaining a hazardous "Safety Vacuum."

Conflict Between City Assistance and HCE Inaction

We do not bring these concerns to disparage the City's efforts; indeed, we are grateful for the support of individuals like **Jenny McNulty** (HCE) and **Leif Bursell** (Senior Planner) who were instrumental in securing CO detectors. However, despite their individual efforts, a systemic enforcement gap persists.

- **HCE's Strategic Silence:** HCE helped with detectors but has refused to cite the **current violation** of **BMC 19.40.080** for missing safety records and the **unit-count fraud**.
- **Inter-Departmental Conflict:** Mr. Bursell's office recognizes the **19-unit count** for project **ZP#2024-0162**, yet HCE continues to allow the landlord to operate as 15 units to evade the **ONSITE manager mandate (25 CCR § 42)**.

HCE Negligence, Failure of Regulatory Oversight

The "Safety Vacuum" at 2421/2425 Durant Ave is not an isolated operational error; it is the flagship of a **predatory business model**. The Applicant has admitted to managing a **portfolio of 200+ units in Berkeley** using a remote, text-only "call-center" system. By intentionally removing the **"Human Access Point"** (the state-mandated on-site manager) across hundreds of units, the Applicant has successfully abrogated the Duty of Care and weaponized administrative

friction to force tenant turnover.

Housing Code Enforcement (HCE) has demonstrated a profound failure to check this model, effectively subsidizing this safety vacuum through the following specific actions:

- **Willful Blindness to Public Records:** HCE continues to ignore the property's **19-unit count** in (ZP#2024-0162). This allows the landlord to illegally evade the **25 CCR § 42** mandate for a **ONSITE** resident manager, effectively subsidizing the landlord's illegal cost-cutting and leaving 19 tenants in safety vacuum and compromised habitability.
- **Overlooked "Visible" Non-Compliance:** During the proactive inspection on August 20, 2024, HCE ignored the building's public signage explicitly advertising **Remote Management."** — a service level permitted only for buildings with fewer than 16 units — a *per se* admission of a state safety violation for a building of this density.
- **Negligent Auditing and "Cured" Misdemeanors:** HCE ignored documented evidence that the property operated with **zero safety inspections** and **zero Carbon Monoxide detectors** for SIX consecutive years (May 2019– August 2024), as the annual RHSP safety check deadline is July 1st of each year. By failing to demand the last five years and the current year 2024 of safety checklists— which the landlord is statutorily required to maintain—HCE allowed a criminal misdemeanor (**H&S § 17926**) to be "cured" without penalty or record.
- **Failure to Cite Active Violations (BMC 19.40.080):** In August 2024, HCE officials erroneously claimed they could not punish the owner "retroactively". However, the failure to produce current and (immediate) past **RHSP Schedule-A** records is an **active, present** violation carrying a mandatory fine of **\$200 per unit** which HCE failed to levy and to cite.
- **Facilitating Inspection Fraud:** After the property's record of **6-year absence** of mandated Carbon Monoxide detectors (May 2019–August 2024) and a total bypass, HCE accepted a **2025 "Self-Certification"** from the landlord despite proof that **no physical inspections** were performed. The landlord merely emailed tenants the form, bypassing the mandatory verification of stoves, smoke and CO alarms.

Formal Disclosure of Evidence and Master Objection (Exhibits 1-18)

I am formally submitting into the Commission's public record two critical filings that document a coordinated pattern of "**Demolition by Neglect**" and **Administrative Bad Faith** at 2421/2425 Durant Ave (Attachments: Master Objection & Exhibits 1-18) :

1 Master Objection & Demand for Revocation of ZP#2024-0162: This record provides **substantial evidence** of material fraud, illegal retaliation, and chronic life-safety endangerment that was either ignored or overlooked during the February 23, 2026, appeal hearing. By affirming this permit while the Applicant remains in active, criminal non-compliance (**HSC § 17995**), the City has breached its **Mandatory Duty under Gov. Code § 815.6** and assumed an unprecedented **accruing municipal liability**.

Under Government Code § 65589.5, the City risks court-ordered fines of **\$50,000 per unit** for 'Bad Faith' violations of SB 330. For a project of this scale, this represents an **\$8.45 Million risk to the City's General Fund**. This Commission must act to stay the

permit and refer the HCE oversight failure for immediate investigation to mitigate this avoidable fiscal catastrophe.

Summary of Landlord Faults & Malfeasance:

- **Statutory Fraud to Evade Onsite Safety Mandates (25 CCR § 42):**
 - **The "Onsite" Requirement:** California law mandates that any building with 16+ units must have a responsible person **residing upon the premises**.
 - **The 15-Unit Deception:** The Applicant willfully misrepresented the property as "15 units" [Exhibits 2, 4] to evade this **onsite** requirement, replacing a mandated safety officer with a remote call-center while simultaneously using the true 19-unit count to secure a **20-story Density Bonus**.
- **Creation of a "Safety Vacuum":** This is not a "management style" choice; it is a criminal evasion of a safety mandate. The illegal absence of an **onsite** manager resulted in a **9-hour fire alarm failure** [Exhibit 14] and forced tenants to act as emergency responders during **gas leaks** [Exhibit 15]. A remote call center cannot smell gas or silence an alarm—only an **onsite** manager can.
- **Tactical "Demolition by Neglect" (B.M.C. 13.79.060):** The Applicant has weaponized "managed decay"—including maggot infestations and defective appliances—to coerce displacement and bypass relocation obligations.
- **Malicious Retaliation (CIV § 1942.5):** After a tenant was nearly fatally injured by a structurally unstable stove, the Applicant ceased all repairs and utilized legal threats to silence whistleblowers and intimidate vulnerable residents.

2. Evidence Packet (Exhibits 1-18): This document contains the "Smoking Gun" physical proof of the applicant's predatory business model, including:

Category A: The "19 vs. 15" Fraud & Onsite Management Evasion

- **Exhibit 1:** Official City Public Hearing Notice (Confirming **19 Units**) — ONSITE mandate
- **Exhibit 2:** Current Building Signage (Advertising "**Remote Management**" — a per se violation of 25 CCR § 42).
- **Exhibit 3:** Text Record (Aug 4, 2024): Emergency Demand for Management following gas leak and injury.
- **Exhibit 4:** Text Record (Aug 4, 2024): The "**15-Unit**" Lie & Statutory Deception.
- **Exhibit 5:** Text Record: History of service disruption and management vacancy (Pre-2022 vs. Post-2022).
- **Exhibit 6:** Text Record: Confirmation of financial neglect and refusal to pay for mandated onsite staff.

Category B: Systematic Inspection Fraud & Life-Safety Violations

- **Exhibit 7:** 5-Year **RHSP Inspection Evasion & Certification Fraud** (2019–2023).
- **Exhibit 8:** Documentation of **RHSP "Self-Certification" Fraud** (June 27, 2025).
- **Exhibit 9:** 5-Year **Carbon Monoxide Safety Violation** (2019–2024).
- **Exhibit 10:** Photo & Text Record (Aug 4, 2024): **Leaky stove** with broken foot and

resulting near fatal injury.

Category C: Retaliation, Habitability Breaches & Emergency Failure

- **Exhibit 11:** Text Record (Aug 8, 2024): **Legal intimidation** and threats of "counsel intervention" for citing habitability laws.
- **Exhibit 12:** Record of **Constructive Denial of Service** (Aug 3–13, 2024): 10-day retaliatory refusal of cooking facilities.
- **Exhibit 13:** Photo & Text Record (Aug 13, 2024–Present): Categorical **refusal to repair** or replace defective stove.
- **Exhibit 14:** Audio/Video Record (Dec 9, 2025): **9-Hour Fire Alarm Failure** occurring without management intervention.
- **Exhibit 15:** Record of **Nov 1, 2024 Gas Emergency**: Residents forced to act as first responders.

Category D: Managed Decay & Entrapment Hazards

- **Exhibit 16:** Smart Lock Documentation: Illegal transfer of maintenance duties to tenants.
- **Exhibit 17:** Feb 16, 2023 Lockout Record: Evidence of **Entrapment Risk** and system failure without onsite access.
- **Exhibit 18:** Photo Record of **Managed Decay**: Frequent refuse overflow and maggot infestation (July 2024).

The Necessity of Commission Intervention

Evidence of this 19-unit fraud and the resulting "**Safety Vacuum**" has been distributed to multiple City departments. While Housing Code Enforcement (HCE) has confirmed an "ongoing investigation," there is no transparent timeline. In this delay, the Applicant is actively materializing lucrative High-Density entitlements granted on the basis of the very fraud documented herein.

We request the Commission exercise its Oversight Authority to prevent these investigations from becoming a "bureaucratic shield" for the following reasons:

- **Active Criminal Non-Compliance:** While audits proceed, HCE continues to allow the Applicant to operate in open violation of **HSC § 17995**. Administrative convenience must not take priority over the immediate life-safety citations required by law.
- **Dangerous Precedent:** Allowing this Applicant to bypass the **25 CCR § 42 onsite manager threshold** signals to this 200-unit operator—and the broader development community—that Berkeley's safety mandates are "optional" and that "**Demolition by Neglect**" is a sanctioned path to redevelopment.
- **Failure of the Safety Net:** This pattern of "Enforcement-Only Compliance" proves that current HCE oversight is insufficient to protect residents from sophisticated, large-scale operators.

Requested Action: Formal Motion to Agendize for April 2026

Pursuant to the Commission's authority as the **Housing Advisory and Appeals Board**, I formally request that the Commission agendize an Action Item for the April 2026 meeting to address the systemic failure of HCE oversight at 2421/2425 Durant Ave. We ask the Commission to move for the following:

1. Compelled Issuance of Life-Safety Citations:

- **25 CCR § 42:** Immediate issuance of a **Notice of Violation (NOV)** for the documented absence of an **ONSITE** resident manager.
- **BMC 19.40.080:** Mandatory fines for the failure to produce **RHSP Schedule-A records** (missing for the 2023 and 2024 cycles), which were documented but un-cited during the August 20, 2024 inspection.

2. Mandatory Inter-Departmental Reconciliation:

- A formal audit to resolve the "**Unit-Count Double-Speak.**" The City must reconcile the **19-unit count** used for Zoning bonuses (ZP#2024-0162) with the **15-unit fraud** used by the Applicant to evade onsite management mandates.

3. Program Integrity & Accountability Inquiry:

- **RHSP Disqualification:** A recommendation to the Building Official to disqualify this Applicant from the "**Self-Certification**" program for 6 years due to documented inspection fraud in 2025.
- **Ministerial Duty Audit:** An investigation into why HCE refused to cite visible, active violations—specifically the "**Remote Management**" signage—during the August 2024 proactive inspection.

4. Finding of Harassment & Stay of Entitlements (B.M.C. 23.326.030):

- A formal inquiry into the "**Chilling Effect**" and retaliation documented in Exhibits 11-13. We request the HAC advise the City Council to **stay all project entitlements** until this environment of criminal non-compliance (**H&S § 17995**) and tenant intimidation is fully abated.

Request for Accountability on Ongoing Investigations

While HCE has confirmed receipt of fraud and endangerment reports, they have provided no timeline for enforcement. In this vacuum, the Applicant is actively materializing lucrative entitlements. We request the Commission:

- **Demand a Public Status Update:** Formally request HCE provide the Commission with a transparent timeline for the completion of their investigation.
- **Prevent "Administrative Waiver":** Ensure the City does not waive its **municipal immunity under Gov. Code § 815.6** by continuing to ignore documented fraud that endangers human life.

The Goal: To terminate a predatory "Operational Mode" where the City effectively subsidizes a developer's intentional endangerment of 19 households.

Summary: The Case for a Stay of Entitlements

The Bottom Line: Administrative Bad Faith & Municipal Risk

The Applicant's "**Unit-Count Double-Speak**" is a documented fraud on the City of Berkeley. They are claiming:

- **19 Units for the profit (20-story Density Bonus).**

- **15 Units for the liability** (Evading **ONSITE safety mandates**).

This is not a clerical error; it is **Criminal Non-Compliance (H&S § 17995)** that has already caused gas emergencies and physical injury. By ignoring this "Double-Speak," the City assumes an **\$8.45 Million SB 330 liability**.

Conclusion:

Pursuant to **B.M.C. 23.326.030**, the HAC must advise the City Council to **Stay all Entitlements** for ZP#2024-0162 until HCE reconciles this fraud and issues the mandatory life-safety citations required by law. The City must stop subsidizing a "Safety Vacuum" at the expense of human life and the General Fund.

I will be attending the March 5th, 2026 meeting to speak during Public Comment and provide further context on these exhibits.

- **19 Units for the profit** (20-story **Density Bonus**).
- **15 Units for the liability** (Evading **ONSITE safety mandates**).

Respectfully,

Bonnie Zhu, PhD
Long-term Tenant, 2421/2425 Durant Ave.

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