

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: URGENT: April 9 ZAB Supplemental — ZP #2024-0162 Void Ab Initio (Gov. Code § 1090) & State-Created Danger at 2425 Durant And City-Wide Community Safety Crisis

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**From:** DurantSafetyConcern <durantsafetyconcern@gmail.com>  
**Sent:** Thursday, April 9, 2026 10:50 AM  
**To:** Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>  
**Cc:** Klein, Jordan <JKlein@berkeleyca.gov>; Auditor <CityAuditor@berkeleyca.gov>  
**Subject:** URGENT: April 9 ZAB Supplemental — ZP #2024-0162 Void Ab Initio (Gov. Code § 1090) & State-Created Danger at 2425 Durant And City-Wide Community Safety Crisis

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

**Dear ZAB Secretary,**

Please verify the receipt of this email for inclusion of **Supplemental Communication # 2** for tonight's ZAB meeting?

Please make sure that it's distributed to the Board members before tonight's meeting.

Many thanks!

**Durant Safety Concerns, PhD**

**To the Members of the Board and the Public:**

The City of Berkeley has affirmatively orchestrated a criminalized **State-Created Danger** at 2425 Durant (APN 055-1878-00701). By ratifying a 19-unit permit (**ZP #2024-0162**) for a premises operating under a 15-unit-limit "call-center text-only style" per-task model, the City has knowingly enabled a criminal misdemeanor non-compliance with the 16+ unit onsite manager mandate (**HSC § 17995; 25 CCR § 42; BMC 19.40.080**).

Despite multiple preventable life-safety emergencies since late 2022, the City has knowingly maintained false "clean" safety records through interdepartmental coordination. The City's insistent non-enforcement and ZAB's willful blindness has enabled not only the criminal misdemeanor non-compliance but also a density fraud based on material misrepresentation of facts. It is **double-bookkeeping and double-dipping**. The developer is enriched with high-density entitlements and extra floors based on a 19-unit count, while simultaneously pocketing the salaries of the mandated onsite manager position by maintaining a 15-unit-count-limit operation — all at the cost of tenant lives.

Furthermore, this permit represents a felony-level violation of **Gov. Code § 1090**. A sitting ZAB board member serves as the Architect of Record for ZP#2024-0162. This direct financial interest —

an incurable § 1090 violation under its 'strict rules' regardless of personal recusal or Council vote — renders the permit **Void Ab Initio**. This institutional conflict of interest is furthered by a 'revolving door' environment: the project consultant is a former City Planning Manager who possessed actual knowledge of the 15-unit safety limit but persisted in submitting a 'clean' 19-unit application.

This was not a mere oversight but was sustained by a pattern of coordinated administrative fraud and institutional conflict of interest, structurally paralyzing the City's oversight and fundamentally drowning the whistle-blowing resident in procedural suppression and the burden of a 'paper-loop' while facing owner retaliation and unsafe living conditions.

The whistleblower testified at the **Oct 9, 2025** public permit hearing with digital evidence, before the Mayor and ZAB, regarding the code text of **BMC 19.40.080**, the unit-count discrepancy, and its consequences on the tenants in addition to 2425 Durant's other safety-cutting violations. Yet, the Mayor & ZAB voted to approve the permit without staying the project until the non-compliance was cured.

The whistleblower testified again at the **Feb 23, 2026** Council meeting and supplied digital evidence before the Mayor, ZAB, and Council on the criminal non-compliance as the Union representatives were simultaneously appealing for labor protections ('Hard Hat' rules), but the Mayor, ZAB, and Council voted to uphold the permit anyway.

Under **BMC § 23.404.070**, a permit obtained through material misrepresentation must be revoked. The whistleblower has submitted multiple formal requests — including **Secretary Referrals** — for a permit revocation hearing in March to the ZAB and Planning Director Jordan Klein. This is in addition to **Repeated Actual Notice** provided since Feb 26, 2026, documenting the permit's **Void Ab Initio** status.

The whistleblower testified again at the **March 12, 2026** ZAB meeting with correspondence submitted and distributed, presenting the Board and Chair with the specifics of several preventable life-safety emergencies and the **Gov. Code § 1090** violation caused by the Architect of Record being a sitting ZAB member. After the March 12 public comments on non-agenda items, the absolute minimum the Board Chair and members should have done was to agendize this matter for today's **April 9 meeting**. Instead, there is **NONE**.

This complicity constitutes a breach of ministerial duties under the **California False Claims Act, Gov. Code § 65915, BMC § 23.328, Gov. Code § 815.6, and Gov. Code § 1097**.

The City's systemic malfeasance actively empowers the owner of 2425 Durant / Collab's criminal non-compliance and the **underground economy revolving per-task model**— this shared call-center text only style with a non-local skeleton crew servicing an **ever-increasing Berkeley Portfolio of 12 locations** as of late Feb. on record and **200+ units** as of August 2024 by their own admission. The ongoing imminent danger of no immediate onsite coordination by management is evidenced by a **9-hour smoke alarm runaway** in an egress corridor on Dec 9, 2025. Despite repeated notifications, management was unavailable and a tenant had to resort to **'broom action'** to

silence the alarm, which remained unremedied for over 100 days until this week only through the whistleblower's advocacy.

Since Feb 23, 2026, the whistleblower has put the City on **Repeated Actual Notice** by supplying documented evidence of life-safety emergencies and non-compliance, legal notices, in-depth legal analysis with City's **municipal liabilities** and legal & fiscal risks after forensic research, requests for investigation and hearings to all relevant City departments, their administrative heads, and City Boards at an almost every other day frequency — **especially during March** — while adhering to the strict submission deadlines of the latter and testifying at their monthly meetings.

This unwavering advocacy and intensive forensic & administrative work—performing the life-safety tasks and record integrity work the City staff failed to do—is conducted in the interest of public safety and the democratic process. Such dedicated efforts for accountability have been met with bad-faith silence and active procedural suppression from the City.

**The response? Radio silence.**

**The time for action is now. Respect life-safety and democracy. Stop the criminal non-compliance, the density fraud, and the § 1090 felony. Revoke permit ZP #2024-0162 immediately.**

**Respectfully,**

**Whistleblower  
Durant Safety Concerns, PhD**