



Planning & Development Department
Building and Safety Division

MEMORANDUM

TO: Eric Angstadt, Director of Planning
FROM : Alex Roshal, Building Official
DATE: January 30, 2015
SUBJECT: Building Official Determination Regarding Demolition of 2631 – 2637 Durant Ave per BMC Section 23C.08.070A

On January 8, 2015, the City of Berkeley Permit Service Center received a Demolition Permit Application No 15-0099 from Mr. Clifford Orloff to demolish an 18-unit residential apartment building in its entirety at 2631 – 2637 Durant Ave (APN No. 055-1871-006-00) under BMC 23C.08.070.A.

BMC Section 23C.08.070.A reads: *“Notwithstanding anything to the contrary, if a building or structure is unsafe, presents a public hazard and is not securable and/or is in imminent danger of collapse so as to endanger persons or property, as determined by the City’s Building Official, it may be demolished without a Use Permit. The Building Official’s determination in this matter shall be governed by the standards and criteria set forth in the most recent edition of the California Building Code that is in effect in the City”.*

Following receipt of the Demolition Permit Application referenced above, the Director of Planning requested that the Building Official assess conditions of the existing building and make a determination pursuant to the criteria outlined in BMC Section 23C.08.070.A. The purpose of this determination is to assist the Land Use Planning Division in their decision as to whether this multi-unit residential building can be demolished without a Use Permit.

On January 21, 2015, with prior consent from and in the presence of the property owner, staff from the Building and Safety Division, the Fire Department, and the Code Enforcement Unit inspected the above referenced property. Based on the observations made during this inspection, and additional documentation included by the property owner with the demolition application, the Building Official, in consultation with the Acting Fire Marshall, made the following determinations:

DETERMINATION OF UNSAFE BUILDING

During the inspection on January 21, 2015, staff observed that the building was not secured against unauthorized entry due to several broken windows and multiple windows which have not been boarded up. All units could be accessed through one another due to breaches in the walls separating the units. In spite of prior instructions to board up all openings to the building from the interior with plywood using one-way screws that cannot be removed without a special tool, star head screws which could be removed with a screwdriver were observed at various locations. Staff

observed that the building was occupied by at least one individual at the time of inspection. According to the owner this occupancy was allegedly without their consent. The lack of owner's consent was disputed by the individual at the time of this inspection. Buildings and premises which remain vacant must be provided with adequate security to prevent entry by unauthorized persons. Vacant structures that are not secured against entry are deemed unsafe. (BMC 19.28.020 Subsection 116.1, BMC 19.48.010 and CFC Sections 110.1.1 and 311.2).

The following additional conditions were observed:

1. Holes in the walls and ceilings of the required fire-resistant rated separation walls between dwelling units. (BMC 19.28.020 Subsection 116.1, BMC 19.48.010 / CFC Section 110.1.1).
2. Exposed, cut and damaged knob and tube wiring within walls and ceilings of most units presenting unsafe electrical conditions and a fire hazard. (BMC 19.28.020 Subsection 116.1).
3. Missing water supply piping and broken plumbing fixtures in all units presenting insanitary conditions. (BMC 19.28.020 Subsection 116.1).
4. Broken or damaged interior building components such as doors, lath and plaster, cabinetry etc., indicating inadequate maintenance. (BMC 19.28.020 Subsection 116.1).
5. Unprotected holes cut in the roof allowing water intrusion to walls, floor and ceiling cavities, electrical wiring and fixtures, and mechanical equipment presenting deficient conditions and inadequate maintenance. (BMC 19.28.020 Subsection 116.1).
6. Waste accumulation including discarded clothing, bedding, decaying food, feces and hypodermic needles presenting inadequate maintenance, illegal occupancy, insanitary conditions, and a fire hazard. (BMC 19.28.020 Subsection 116.1).

Based on the above conditions, **this building is considered to be an Unsafe Building as well as a Public Nuisance.** Unsafe buildings, equipment, structures or appendages shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in Chapters 1.24, 19.28, 19.40 and 19.44 of the Berkeley Municipal Code (BMC) as applicable. Please note that this case was previously referred to the Code Enforcement Unit. On January 5, 2015, the Code Enforcement Unit issued a Blight Notice for 2631 – 2637 Durant indicating that the property had not been maintained in a clean, safe, healthy and secure condition and requiring the property owner to properly board and secure the building consistent with the requirements of the City's Anti-Blight Ordinance.

DETERMINATION OF PUBLIC HAZARD

According to the City of Berkeley permit records, 2637 Durant Ave was originally built circa 1924. The building was constructed with wood framed walls, floors and ceiling/roof using the conventional light-frame construction methods commonly employed during that period. The building footprint forms a rough "U" shape sitting on the property with the open end facing south toward Durant Ave. The building is two stories high with a full height basement under the majority of the west wing and a 2 to 4 foot crawlspace throughout the remainder of the building footprint. The main roof is sloped less than 2 units vertical in 12 units horizontal and surrounded by parapet walls. Roof top access is provided by a full set of stairs through a penthouse located at the rear of the building. The main roof is finished with a built-up or modified bitumen roofing membrane, while the smaller roof elements at visible architectural features are finished with Spanish tile. The exterior

of the building is sheathed with what appeared to be horizontal 1x12 boards with a cement stucco finish and the interior spaces are finished with lathe and plaster.

BMC Section 23C.08.070.A provides guidance that the Building Official's determination in this matter shall be governed by the standards and criteria set forth in the most recent edition of the California Building Code. The California Building Code intends in Section 101.3 that public safety be safeguarded through several factors attributed to the built environment, such as structural strength, egress capabilities, stability, sanitation, light and ventilation, energy conservation, safety to life and property from fire and other similar factors attributed to the built environment.

This building is not on the City Inventory of potentially hazardous soft-story buildings. This building is not on the City Inventory of potentially hazardous unreinforced masonry buildings. The building does not have a history of any outstanding Housing Code violations. In fact, the 2013 Self Certification Checklist completed by the building resident manager for one of the units indicates fully compliant and functional building systems.

Since the building is currently vacant, the governing factor in determining a public hazard attributed to the built environment is the structural integrity and stability of the existing building. During the inspection on January 21, 2015, Building & Safety staff observed that the building's exterior walls were intact and appeared to sit plumb, with no excessive deflections or other signs of failure evident. Throughout the building, staff noted that openings had been created at the interior walls by removal of finishes and/or framing members, such that most areas of the building were now contiguous. The second floor framing was not exposed and had no readily visible signs of damage or distress. The first floor framing and foundation were only observable at the basement level under the west wing of the building. Those portions of the first floor framing and foundation that were available had no readily visible signs of damage suggesting structural failure. The lot is relatively level with a gradual downward slope from east to west; no remarkable soil conditions, ground movement, or grading features were observed at the site.

At the roof level, staff made observations that the building had suffered recent damage to the roof covering and sheathing with openings cut into the roof sheathing/boards by chainsaw at multiple locations but primarily at the east wing. Some of the roof rafters were notched during the cutting but none of the rafters observed were cut completely through. The ceiling framing appeared undamaged, though the finishes had been removed at the openings in the roof diaphragm. The Demolition Application indicates that Berkeley Fire Department, with prior permission from the building owner, conducted fire-emergency training exercises at the subject building in November and December of 2014. During their training, the Fire Department cut many holes in the roof as well as advanced hose lines inside and breached the ceilings and walls. The Fire Department did not flow any water through the hose lines. It should be noted that the damage to the building attributed to the Fire Department's recent exercises is equivalent to or less than the anticipated damage due to Fire Department's operations in a structure fire. Incidental damage due to fireground operations is normally repairable after the incident.

Other public hazards that may be attributed to the presence and use of the existing building, including but not limited to egress, sanitation, light and ventilation, fire hazard to life and property, are mainly associated with the building occupancy. Since the building is considered vacant, the impact of these factors is beyond the scope of this determination. In cases of vacant buildings, individuals would have to break in and subsequently deliberately expose themselves to unsafe conditions.

This office also reviewed the additional documentation provided by the property owner and indicating that this building had been previously inspected by several contractors, Fisk Termite Control, Inc. and Bishwendu K. Paul, S. E. The contractor's reports and Fisk Termite inspection

report indicate that the building is in need of extensive repairs throughout. The engineering report indicates that the existing foundation and cripple wall shear bracing may not perform adequately in the event of a moderate to severe earthquake and recommends replacing the existing foundation with a new foundation having wider and deeper footings to carry the design loads and meet current building standards including seismic requirements. It should be noted that the California Building Code requires that buildings be maintained by their owners in a safe and sanitary condition. As such, all the recommended work indicated above should be considered by the property owner. The Building Code also recognizes that buildings, materials and methods of construction in effect at the time of original construction shall be allowed to remain in use; code required devices or safeguards shall be maintained in conformance with the code editions under which they were installed. Conditions of the existing building that do not meet the requirements of the current code do not, of themselves, constitute a public hazard, provided such conditions are not dangerous to life as established by local code regulations.

Based on the above conditions, it is the determination of this office that **this building does not present a Public Hazard based on the factors attributed to the built environment.**

DETERMINATION OF NON SECURABLE BUILDING

Pursuant to BMC Section 12.92.030.E, vacant properties shall be boarded up in a manner approved by the Building Official, which does not have a significant adverse visual impact on the neighborhood or substantially contribute to the dilapidated or deteriorated appearance of the neighborhood. To the extent feasible, the boarding up shall cause the property to have the appearance of an occupied residence as determined by the Building Official. The property owner was instructed repeatedly to board up all building openings from the interior with ½ CDX plywood or better, to secure the plywood with one-way screws that cannot be removed without a special tool, and to install plywood door panels over the exterior door openings secured with a hasp and lock. During the inspection on January 21, 2015, Building & Safety staff did not observe any detrimental conditions that would prevent the building from being secured against entry as intended in BMC Section 12.92.030.E. All exterior openings were intact. Staff did not observe any damage to the building envelope that would prevent securing the building. An example of a non-securable building would be a building damaged in a fire or an earthquake where it is not practical to board up all the openings based on the extent of damage to the building envelope, OR a damaged building likely to collapse over a public way where boarding up the building would not serve the purpose of safeguarding public safety. Based on the observed conditions of the building envelope and the building's structural integrity, it is the determination of this office that **this building is considered securable.**

DETERMINATION OF IMMINENT DANGER OF COLLAPSE

This determination addresses instances in which a dangerous structure, liable to fall or collapse imminently, presents an extreme and immediate hazard, endangering the safety of the occupants, the public, and adjacent structures. In these cases, the authorities must act with the utmost dispatch, and in coping with such an emergency must use whatever means may be necessary for safety and protection of the public, including but not limited to Demolition Orders and Summary Abatement Proceedings under BMC Section 1.24.040. Based on the observed conditions and review of permit documentation, **this building does not present an imminent collapse hazard.**

CONCLUSION

Pursuant to BMC Section 23C.08.070.A, the following determinations are made:

- **This building is determined to be an Unsafe Building as well as a Public Nuisance.**

- **This building does not present a Public Hazard based on the factors attributed to the built environment.**
- **This building is determined to be Securable based on the factors attributed to the built environment.**
- **This building does not present an Imminent Danger of Collapse.**

These determinations are based on the standards and criteria set forth in the 2014 edition of the California Building Code and do not take into account the building owner's reasoning stated in the demolition application as these issues are outside the scope of this determination.