

**Case No. RG17843691 and Related/Consolidated Claims
In Re the Ghost Ship Incident
Master Claim Against the City of Oakland (Gov't Code Section 910)
To Be Used with Notice of Adoption of Master Claim Form**

1. DESCRIBE THE INCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES:

On the evening of December 2, 2016, Injury Claimant and/or Decedent Claimant (hereinafter "Claimant") was at 1305 31st Avenue in Oakland when a deadly fire broke out during a publicly promoted commercial music event and "gathering." As a result of numerous violations of countless State and local laws and ordinances, 36 people were killed and many more were injured. This was the largest loss of life in a fire in Oakland history and the deadliest building fire in California since the 1906 earthquake.

At approximately 11:15 pm on December 2, 2016, over 100 invitees were at the music event when the fire started inside the Ghost Ship. These invitees, along with artists performing at the event and residents, were plunged into darkness and smoke and tried to exit the unsafe structure. The interior of the 10,000 square-foot Ghost Ship was a death trap that contained a maze of makeshift rooms, alcoves and partitions. It was cluttered with carvings, mannequins, paintings, artwork, scraps of wood, pianos, furniture, tapestries and several recreational vehicles.

The Ghost Ship lacked a safe means of access between the upper floor where the music event was and the warehouse exit on the ground floor. The Ghost Ship lacked adequate and sufficient fire safety measures and was not up to fire protection and life safety codes, including, but not limited to, not having adequate and sufficient smoke alarms, fire extinguishers, overhead sprinklers, exit signs, emergency lighting, exit lights and a safe means of ingress and egress.

Thirty-six (36) people were unable to exit and were trapped in the inferno inside. These victims suffered injuries from the fire, including from smoke inhalation, while trying to escape. The victims who perished were alive and feared for their safety. They were eventually overcome by the fire and smoke, and subsequently died inside the Ghost Ship. They did not die instantaneously when the fire broke out. They were injured and suffered from the injuries caused by the fire and smoke for many minutes before dying.

The City of Oakland is a municipal corporation, formed by Charter, founded in 1852 and incorporated in 1854. The City functions through the actions of its agents, employees, officials, department heads, and chiefs of its various departments and agencies. These include, but are not limited to, the Oakland Fire Department (hereinafter "OFD"), the Oakland Police Department (hereinafter "OPD") and the Oakland Planning and Building Department and its Building Permits, Inspections and Code Enforcement Services (hereinafter "OPBD"; these agents, employees and departments are hereinafter collectively referred to as "The City").

Claimant claims that The City was under a mandatory duty to protect the public from the very type of conditions and harm which led to the tragedy on December 2, 2016: a deadly structure fire, including: 1) substandard, hazardous, out of code, structural components; 2) wiring and utilities, inadequate fire protection; 3) insufficient, blocked, and unmarked fire exits; and 4) improper occupancy and use as a residence and cabaret.

Claimant alleges that The City is liable for damages pursuant to, but not limited to, California Government Code Sections 815, 815.2, 815.4, 815.6, 822.2 & 840.2. Claimant claims that The City, through its statements, actions and deeds, as well as pursuant to statute, created and established a special relationship/duty which required that they take affirmative action to protect the Claimant from the very risk of harm and/or death, which they suffered on December 2, 2016. Claimant claims that The City failed to perform these obligations entirely or, where they engaged in such actions, they failed to exercise reasonable diligence in discharging those duties, thereby constituting negligence and/or negligence per se.

Despite notice of the unsafe and dangerous conditions, the City, among other things, negligently failed to investigate, negligently failed to respond to complaints, negligently failed to protect the public, negligently failed to train, supervise and monitor its agents, employees and/or independent contractors, negligently failed to abate an impending peril, negligently failed to warn the public of the dangerous and unsafe conditions, negligently failed to abate a public nuisance, and are liable for failing to stop the ultra-hazardous activities occurring.

The City's agents, agents and/or independent contractors failed to exercise reasonable diligence in discharge of their duties. Said agents, employees and/or independent contractors were negligent in carrying out investigations, protective and safety responsibilities. The negligent acts and omissions and wrongful conduct of The City's agents, employees and/or independent contractors were committed within the scope of their employment. The City is liable for any tortious act or omission of an independent contractor of the public entity to the same extent that the public entity would be subject to such liability if it were a private person.

Claimant is within the general class of persons that one reasonably would anticipate might be threatened by The City's acts and omissions. The City breached its duties under California law, and as a proximate and direct legal result of the City's negligence and breach of duties, Claimant was caused to suffer injuries and damages. The extent of Claimant's injuries and damages are more fully set forth in the Notice of Adoption of Master Claim Form.

A. Facts Supporting Claimant's Claims

1305 31st Avenue is a structure located in an R-30 Zone, yet it is considered by The City to be a "Warehouse, Portion of a Single Economic Unit." This Single Economic Unit includes Assessor Parcel Numbers (hereinafter "APN") 25-690-11 (1305 31st Ave.), 25-690-10 (1315 31st Ave.) and 25-690-9 (3703 International Blvd). The structures have been owned, since 1988, by Chor Ng. The buildings sit at the corner of 31st Avenue and International Blvd., and run almost the complete length of the block on 31st Avenue between International Blvd. and East 13th Street.

As part of the consolidated Single Economic Unit, there is an undeveloped yard on the south side between the structure on 1305 31st Ave. and the residence at 1301 31st Ave.: APN No 25-690-5.

APN 25-690-11 was commonly referred to as the “Ghost Ship” by its occupants and in various promotions of the illegal cabaret which operated there. Graffiti painted on the front of it on the 31st Street side said “GHOSTSHIP.” The building, at various times, also went by other names including but not limited to the Satya Yuga Collective. At times, APN 25-690-11 has been misidentified as 1315 31st Ave. The building was covered in graffiti, and debris obstructed the sidewalk and ingress/egress creating a dangerous condition of public property for those seeking to enter or exit the building. From the outside, it was evident that the windows were blocked by debris stacked from floor to ceiling and numerous metal objects were attached to the exterior of the building in a dangerous manner.

APN 25-690-11 is reported to have been constructed in the early 1900s. Prior to December 2, 2016, numerous unpermitted modifications to the entire Single Economic Unit had occurred on numerous occasions including, but not limited to: a new electric service; new meters and sub meters; construction of illegal residential units; toilettes, kitchens and showers; inter and intra building passageways to access bathrooms; structural changes in the exterior and interior walls; and unpermitted and shared electrical systems.

The electrical system was overloaded with excessive use by the dozens of people who lived and worked at the Ghost Ship, including artists, musicians and tattoo artists that used electrical equipment, as well as the musicians and groups that performed public events held at the Ghost Ship. There were often sparks from the electrical system that smelled and circuit breakers blew out often. Overloaded electrical lines at the rear of the Ghost Ship likely contributed to the fire.

There had been fires inside the Ghost Ship prior to December 2, 2016. The most recent fire occurred the day before, on December 1, 2016, when a refrigerator caught on fire.

Dangerous and flammable materials, including industrial and art supplies, propane tanks that fueled camping stoves and recreational vehicles and their components, were located throughout the interior of the Ghost Ship.

Evidence exists that The City knew about such conditions and failed to fulfill its mandatory duties with to abate them and render the property safe. For example, complaints made to OPBD, for hazardous and unsafe conditions, including, but not limited to, the building being used illegally for residential purposes:

- November 14, 2016: “Illegal interior building structure”
- November 13, 2016: “There are a ton of garbage piling up on the property on 1305 31st Avenue. Also, a lot of items are left on the sidewalk near the property. Some trash was hazardous. This property is a storage but the owner turned it to become trash recycle site. the [sic] yard became a trash collection site and the

main building was remodel for residential. The change causes our neighborhood looks very bad and creates health issue.”

- October 7, 2014: “Constructing house/structure without permits”
- September 30, 2014: “Pallets, construction materials blocking sidewalk”
- June 4, 2014: “trash & debris, construction debris, vector issues”

The City, through its agents, employees, officials, departments and contractors, was aware that the Ghost Ship was being used as a cabaret, for unpermitted business purposes and unlawful residences for numerous inhabitants, including children, and was a public nuisance. The City was aware of numerous violations of State and local statutes, ordinances and codes, including but not limited to: The California Health and Safety Code, The California Building Code, The California Fire Code, The California Electrical Code, The California Mechanical Code, The California Code of Regulations, The California Administrative Code and Oakland Municipal Codes (hereinafter collectively referred to as “Laws”). These Laws created mandatory duties for The City, its employees, agents, officials, departments and contractors to undertake affirmative actions to make the premises safe or shut it down. Said mandatory duties were obligatory and not discretionary or permissive and included, but were not limited to, requirements to investigate buildings and structures and enforce the applicable Laws to protect against the particular kind of injury that was suffered by Claimant.

The Ghost Ship had an open, obvious and known history of having public events and parties inside, outside and on the roof top, and charging an entrance fee to the events.

The nearest fire station was very close to the Ghost Ship. Employees, agents and/or representatives of the OFD attended and held a music event at the Ghost Ship before December 2, 2016.

It is undeniable that the OPD knew, for many years, that an illegal cabaret/rave was being held, and that alcohol was being sold illegally, yet they did nothing to shut it down. There were numerous complaints of excessive noise and debris made to the OPD when events were occurring. On numerous occasions, OPD had been inside and seen the substandard conditions and fire hazards firsthand.

The City, despite its employees’ knowledge of these dangers claims that OPD had no responsibility to either take action to protect the occupants or to report the same to other agencies and employees within The City (OFD and/or the OBPD.) Mayor Schaff’s office stated it isn’t the job of police to enforce building codes. “In the instances where officers visited the warehouse ... they were on site to deal specifically with the rave and potentially dangerous activities.” Police Union President Barry Donelan said cops “are not the code enforcement guys, we are the police, we deal with the immediate problem. The questions for me aren’t in the police department; they are elsewhere in the city.” This bureaucratic passing of the buck flies in the face of the established law of agency (California Civil Code Section 2295 et. seq.). Each employee of The City, whether they be with OPD, OFD or OBPD is an agent (employee) of The City who is their principal (employer). The City was deemed to have notice of whatever

their agents knew and was obliged, under law, in good faith and the exercise of ordinary care and diligence, to have its agents and departments communicate among themselves. (California Civil Code Section 2332.)

B. Applicable Laws Placed Mandatory Duties on The City to Identify and Remedy Dangerous Conditions

1. Oakland’s Commercial Inspection Program Mandated Yearly Inspections

Up and through the date of the fatal fire on December 2, 2016, The City’s official website, Oakland Fire Department Inspection Services represented the following:

Commercial Inspections

“The Commercial Inspection Program *mandates* that *annual inspections* of all commercial facilities and multi-family residences (apartments, hotels, motels, etc.) be conducted as designated by the State of California Health and Safety Code, and City of Oakland ordinance. These annual field inspections, that are managed and directed by the Fire Prevention Bureau, are conducted by the members of the OFD Operations Division **annually . . .”**
<https://web.archive.org/web/20161106233449/http://www2.oaklandnet.com/government/o/OFD/s/Inspections/index.htm> (emphasis added.)

The City enacted a program which mandated that the OFD take affirmative action to inspect all commercial facilities and multi-family residences. The public was expressly informed that commercial buildings, including the Ghost Ship, were annually inspected and, therefore, safe.

2. The Following Laws Set Forth The City’s Mandatory Duties to Protect Against the Particular Kind of Injury that Was Suffered by Claimant

a. The City, by Ordinance, Adopted the Following Statewide Codes

California Building Code. The International Building Code as amended and adopted by the State of California and is another name for the body of regulations known as the California Code of Regulations (C.C.R.), Title 24, Part 2; a portion of the "California Building Standards Code," as defined in the "California Building Standards Law" commencing with Section 18901 of the Health and Safety Code.

California Electric Code. The National Electric Code as amended and adopted by the State of California and is another name for the body of regulations known as the California Code of

Regulations (C.C.R.), Title 24, Part 3; a portion of the "California Building Standards Code," as defined in the "California Building Standards Law" commencing with Section 18901 of the Health and Safety Code.

California Mechanical Code. The Uniform Mechanical Code as amended and adopted by the State of California and is another name for the body of regulations known as the California Code of Regulations (C.C.R.), Title 24, Part 4; a portion of the "California Building Standards Code," as defined in the "California Building Standards Law" commencing with Section 18901 of the Health and Safety Code.

California Plumbing Code. The Uniform Plumbing Code as amended and adopted by the State of California and is another name for the body of regulations known as the California Code of Regulations (C.C.R.), Title 24, Part 5; a portion of the "California Building Standards Code," as defined in the "California Building Standards Law" commencing with Section 18901 of the Health and Safety Code.

California Residential Code. The International Residential Building Code as amended and adopted by the State of California and is another name for the body of regulations known as the California Code of Regulations (C.C.R.), Title 24, Part 2.5; a portion of the "California Building Standards Code," as defined in the "California Building Standards Law" commencing with Section 18901 of the Health and Safety Code 4.075.

b. The City's Municipal Code Created Numerous Mandatory Duties

- **The Ghost Ship was known by The City to be operating an illegal cabaret and the OPD had a duty to report all new businesses to the Chief of Police.**

5.12.010 – Definitions. Cabaret "shall be construed to include any place where the general public is admitted, for a fee, entertainment is provided, and alcohol is served. A place that does not charge for admission but where the general public is admitted, alcohol is served, dancing is permitted, and the venue operates past 11:00 p.m. shall also be construed as a cabaret. A business that conducts cabaret activity shall be allowed to conduct such activity under the following conditions:

- (a) The business applies for and is approved by the City Administrator for the cabaret permit;
- (b) The business maintains the permit by paying the annual fee;
- (c) **The business successfully completes an annual inspection by the Fire Department;**
- (d) The business does not create a public nuisance, adversely affect the health, safety, and general welfare of the public, or negatively impact City resources. . . ." (emphasis added.)

5.70.020 – Police Officers have a mandatory duty to report all new businesses on their beats to the Chief of Police including, but not limited to, the license number, date of opening, nature of business, owners name etc.

There was no Cabaret License for APN 25-690-11: OPD knew about the danger, but took no enforcement action and failed to report it to the OFD or OBPD.

- **The Ghost Ship did not have adequate security pursuant to 8.04.030, 8.04.050, 8.04.110 and 8.04.160 (Commercial Building Security Enforcement).**
- **Chapter 15.08 (Oakland Building Maintenance Code) establishes what constitutes a “substandard condition” and mandates affirmative action to protect life and safety:**

15.08.020 – Purpose. The purpose of this Code is to **provide *minimum standards to safeguard life or limb, health, property, and public welfare*** by regulations and controlling the use and occupancy, locations, and maintenance of all residential and non-residential buildings, structures, portions thereof, and real property within the City of Oakland. (emphasis added.)

15.08.090 – Substandard and public nuisance buildings and real property. Buildings, structures, portions thereof, and real property that are determined to be substandard as defined in Article X of this Code are hereby declared to Public Nuisances and **shall have the Certificate of Occupancy revoked and shall be abated either by repair and rehabilitation or demolition and may be ordered vacated** in accordance with the procedure specified in Article XI of this Code. (emphasis added.)

15.08.120 – General. No building or structure regulated by this Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, or demolished unless separate permits for each building or structure have first been obtained from the Building Official in the manner and according to the applicable conditions prescribed in the Oakland Building Construction Code and the Oakland Planning Code.

Article X - Substandard and Public Nuisance Buildings

15.08.340:

(A) General. Any residential or non-residential building, structure, or portion thereof which is determined to be an Unsafe in accordance with the Oakland Building Construction Code; or any residential or non-residential building, structure or portion thereof, including but not limited to any dwelling unit, guest room or suite of rooms, commercial office or retail sales space, classroom or associated locker room or toilet room, assembly space, or any real property in which there exists any of the conditions referenced in this Section to an extent that is Unsafe to

the life, limb, health, property, safety or welfare of the public or the occupants thereof **shall be deemed and hereby is declared to be Substandard and a Public Nuisance.** (emphasis added.)

(B) Inadequate Sanitation. Residential and non-residential buildings, structures, or portions thereof shall be deemed Substandard and a Public Nuisance when they are unsanitary. (emphasis added.)

(C) Structural Hazards. Residential and non-residential buildings or structures or portions thereof shall be deemed Substandard and a Public Nuisance when they are or contain structural hazard and deemed Substandard and a Public Nuisance when they are or contain structural hazards. (emphasis added.)

(E) Hazardous Electrical Wiring and Equipment. Electrical wiring and equipment which was installed in violation of code requirements in effect at the time of installation or electrical wiring and equipment not installed in accordance with generally accepted construction practices in area where no codes were in effect or which has not been maintained in good conditions or which is not being used in a safe manner **shall be considered Substandard and a Public Nuisance.** (emphasis added.)

(G) Hazardous Mechanical Equipment. Mechanical equipment which was installed in violation of code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect, or which has not been maintained in good and safe condition, **shall be considered Substandard and a Public Nuisance.** (emphasis added.)

(I) Fire Hazard. Any residential or non-residential building, structure, or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause **shall be considered a Substandard and a Public Nuisance.** (emphasis added.)

(J) Faulty Materials of Construction. The use of materials of construction, except those which are specifically allowed or approved by this Code and the Oakland Building Construction Code, and which have been adequately maintained in good and safe condition, **shall cause a residential or non-residential building or structure to be Substandard and a Public Nuisance.** (emphasis added.)

(K) Hazardous or Unsanitary Premises. The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials, surface or subsurface toxic substances, storage or use of chemicals, gas, oil or toxic or flammable liquids, and similar materials or conditions on a premises constitutes fire, health or safety hazards which **shall be abated in accordance with the procedure specified in Section 15.08.350 of this Code.** (emphasis added.)

(L) Inadequate Exits. Except for those buildings or structures or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this Code, residential and non-residential buildings or structures or portions thereof whose existing facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction **shall be considered Substandard and a Public Nuisance.** (emphasis added.)

Notwithstanding compliance with code requirements in effect at the time their construction, residential and non-residential buildings or structures or portions thereof shall be considered Substandard and a Public Nuisance when the Building Official finds that an unsafe condition exists through an improper location of or length of travel to required exits, or a lack of an adequate number or width of required exits, or when other conditions exist which are dangerous to human life including, but not limited to, lack of or unapproved or improperly installed or improperly maintained illumination of required exits, directional signage to required exits, door and window release and security devices, and other obstructions to or within the exiting path of travel or emergency escape.

(M) Inadequate Fire-Protection or Firefighting Equipment. Residential and non-residential buildings or structures or portions thereof **shall be considered Substandard and a Public Nuisance** when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this Code, except those buildings or structures or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy. (emphasis added.)

(N) Improper Occupancy. All residential and non-residential buildings or structures or portions thereof which were not designed or intended to be used or approved for their current occupancies **shall be considered Substandard and a Public Nuisance.** (emphasis added.)

Article XI – Declaration of Public Nuisance—Substandard: Mandatory Action by the OBPD Is Required.

15.08.350 – Commencement of Proceedings. When the Building Official has inspected or caused to be inspected residential or non-residential buildings or structures or portions thereof and has found and determined that such buildings or structures or portions thereof are substandard and a public nuisance, the **Building Official shall commence proceedings to cause the vacation and either the repair and rehabilitation or demolition of the building or structure or portion thereof.** (emphasis added.)

15.08.370 – Repair and rehabilitation or demolition:

A. Any building or structure declared substandard and a public nuisance under this Code **shall be made to comply** with one of the following:

1. **The building or structure shall be repaired and rehabilitated** in accordance with the current edition of the Oakland Building Construction Code and other current codes applicable to the type of substandard conditions requiring repair; or
2. **The building or structure shall be demolished.** (emphasis added.)

15.08.380 – Order to vacate:

B. Dangerous Building or Structure: Whenever a building or structure declared substandard and a public nuisance under this Code is in such unsafe condition as to make it dangerous either to life and limb of the occupants or to private or public property or to health or safety of the public, **it shall be ordered to be vacated and secured and maintained against unauthorized entry.** (emphasis added.)

15.12.010 – 2013 California Fire Code is Adopted and Amended:

A. The 2013 California Fire Code, including referenced National Fire Protection Association Standards and other standards as adopted by the California State Fire Marshal, is hereby adopted and made a part of this chapter as though fully set forth herein, subject to the modifications thereto set forth in this chapter.

B. This chapter shall be known as the "Oakland Fire Code" and shall be referred to in this chapter as "this chapter," "this Code" or "the Oakland Fire Code."

Amend 101.2.2 – General Provision. Failure to comply with any of the provisions of this Code, including failure to provide, obtain or maintain valid permits, certifications, tests, listings, affixed labeling, inspection approvals, or other conditions of permit; failure to repair, demolish, remove, or rehabilitate unsafe materials, appliances, fixtures, equipment or other property; or failure to prevent, restrain, correct, or abate conditions unsafe or hazardous for egress or fire protection or health due to inadequate maintenance, excess loading, dilapidation, or abandonment **shall be and is declared to be prima facie evidence of an existing and continuing hazard to life or limb, property or public welfare.** (emphasis added.)

Amend 109.1 – Unlawful acts. It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premise(s), or system regulated by this code, or cause a public nuisance, potential fire or health hazard, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

Add 109.1.2 – Blight or Hazardous Condition. Any commercially or residentially zoned parcel, lot or premise on which flammable materials as defined by this Code are openly stored or abandoned, causing blight or hazardous conditions, so as to constitute a potential fire or health hazard **shall constitute a public nuisance and shall be ordered cleaned** by the issuance of an Administrative Citation to the property owner in accordance with Section 106.1 of this Code.

Amend 109.4.1 – Powers To Abate. The Fire Chief is authorized to abate a fire or life hazard when necessary to protect life or property. This may include, but is not limited to, confiscation of flammable liquids, fireworks, the removal of hazardous electrical wiring, temporary closure of commercial occupancies, extinguishing unsafe or illegal fires and any other similar hazards, determining no smoking areas, and ceasing operation of any type apparatus that poses an imminent danger to property or life.

Add 115.2 – Fire Hazard. Any residential or non-residential building or structure or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Fire code official, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause **shall be considered Substandard and a Public Nuisance.** (emphasis added.)

Add 115.3 – Faulty Materials of Construction. The use of materials of construction, except those which are specifically allowed or approved by this Code and the Oakland Building Code, and which have not been adequately maintained in good and safe condition, **shall cause a residential or non-residential building or structure to be Substandard and a Public Nuisance.** (emphasis added.)

Add 115.4 – Inadequate Exits. Except for those buildings or structures or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this Code, residential and non-residential buildings or structures or portions thereof whose existing facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction **shall be considered Substandard and a Public Nuisance.** (emphasis added.)

Add 115.5 – Inadequate Fire Protection or Firefighting Equipment. Residential and non-residential buildings or structures or portions thereof shall **be considered Substandard and a Public Nuisance when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment** required by this Code. (emphasis added.)

Add Section 116 – Declaration of Public Nuisance—Substandard:

Any violations of the Oakland Fire Code deemed to be substandard and a public nuisance by the Fire code official or Building Official **shall be subject to the enforcement and other proceedings set forth in the Oakland Building Code, Oakland Municipal Code Chapter 15.08.** (emphasis added.)

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- **The California Health and Safety Code Defines “Substandard Building Conditions”**

Health and Safety Code Section 17920.3 defines substandard conditions to be, including but not limited to:

- Inadequate sanitation lavatory, or bathtub or shower in a dwelling unit;
- General dilapidation or improper maintenance;
- Structural hazards;
- All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly;
- All materials of construction, except those that are specifically allowed or approved by this Code and that have been adequately maintained in good and safe condition;
- All buildings or portions thereof not provided with adequate exit facilities;
- All buildings or portions thereof that are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required;
- All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes that were not designed or intended to be used for those occupancies.

3. The California Health and Safety Code and Administrative Code Sections 24 & 25, Require that The City, Its Agents and Employees, Including, But Not Limited to the OFD, OPD and OPBD, Enforce the State Building Standards Code

Health and Safety Code Section 13145: Enforcement of building standards and regulations.

The State Fire Marshal, **the chief of any city, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, shall enforce in their respective areas building standards relating to fire and panic safety adopted by the State Fire Marshal and published in the California Building Standards Code** and other regulations that have been formally adopted by the State Fire Marshal **for the prevention of fire or for the protection of life and property against fire or panic.** (emphasis added.)

25 CCR § 54 Nuisances — Notices. Whenever any building or portion thereof, has become substandard as described in Section 17920.3 or is a building as described in 17920.10, of the Health and Safety Code, and when determined to be a nuisance as defined in Section 17920 of the Health and Safety Code by the enforcement agency, the following shall apply:

The enforcement agency **shall notify the owner** of the building and any mortgagee or beneficiary under any deed of trust, of record, as follows. The notice shall state the conditions causing the building to become substandard or in violation of Section 17920.10 of the Health and Safety Code, **and shall order the building, or portion thereof, vacated and shall institute**

proceedings for the correction or abatement thereof, either by demolition, closing or repair, within 30 days after the date of the notice. (emphasis added.)

4. State Law Imposes a Mandatory Duty upon The City to Protect Against Danger from Fire

- **Health and Safety Code Section 13146 Imposes a Mandatory Duty upon The City to Protect Against Danger from Fire**

§ 13146: The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal **shall be as follows:**

(a) The city, county, or city and county with jurisdiction in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:

(1) **The chief of the fire authority of the city**, county, or city and county, or his or her authorized representative.

(2) **The chief building official of the city**, county, or city and county, or his or her authorized representative.

(b) **The chief of any city**, county, or city and county **fire department** or of any fire protection district, and their authorized representatives, **shall enforce within its jurisdiction the building standards and other regulations of the State Fire Marshal.** (emphasis added.)

- **The California Fire Code (CFC) Imposes a Mandatory Duty upon The City to Safeguard the Public Health and General Welfare Against Danger from Fire**

§ 1.1.2 – The Purpose of this code is to establish the minimum requirements to safeguard the public health and general welfare through structural strength, means of egress facilities. . . safety to life and property from fire and other hazards attributed to the built environment. . . . (emphasis added.)

§ 1.8.3.1 – Duties and Powers. The *building department* of every city, county, or city and county shall enforce all provisions of this this Code [CBC/CBSC]. (emphasis added.)

§ 1.11.2.1.1 – Enforcement. The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety **is as follows:**

1. The City, County, or city and county with jurisdiction in the area affected by the standard or regulation by either of the following:

1.1 The chief of the fire authority. . .

1.2 The chief building official of the city. . .(emphasis added.)

§ 1.12 – Enforcement Agency [California Code of Regulations, Title 19, Division 1, § 3.12 - Enforcement Agency]:

(a) The provisions of these regulations, California Code of Regulations Title 19, Division 1, **shall be enforced by** the State Fire Marshal, **the chief of any city or county fire department** or fire protection district, and their authorized representatives, in their respective areas of jurisdiction.

(b) The division of authority for the enforcement of these regulations shall be in accordance with the following:

(1) The chief of any city or county fire department or fire protection district, and their authorized representatives **shall enforce the rules and regulations in their respective areas.** (emphasis added.)

§ 3.07 – Clearances. (a) General. No combustible material shall be placed or stored within 10 feet of any building or structure.

§ 3.11 – Exits, Aisles, Ramps, Corridors and Passageways:

(a) **No person shall install, place or permit the installation or placement of any bed, chair, equipment, concession, turnstile, ticket office or anything whatsoever, in any manner which would block or obstruct the required width of any exit. (b) No person shall install, place or permit the installation or placement of any combustible material or equipment in or exposed to any exit.** Exceptions:

(1) Furniture or equipment constructed of wood or other material of similar combustibility may be permitted in an exit or exposed to an exit when approved by the enforcing agency.

(2) When approved by the enforcing agency, combustible materials may be permitted in exit foyers and lobbies.

(3) No person shall install, place or permit the installation or placement of any storage material of any kind in any exit regardless of the required width of such exit. (emphasis added.)

§ 3.14 – Fire Hazard. No person, including but not limited to the State and its political subdivisions, operating any occupancy subject to these regulations shall permit any fire hazard, as defined in this article, to exist on premises under their control, or fail to take immediate action to abate a fire hazard when requested to do so by the enforcing agency. Note: “Fire Hazard” as used in these regulations means any condition, arrangement, or act which will increase, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire; or which may obstruct, delay, or hinder, or may become the cause of obstruction, delay or hindrance to the prevention, suppression, or extinguishment of fire.

§ 104.3 – Right of entry. Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the fire code official has reasonable cause to believe that there exists in a building or upon any premises any conditions or violations of this code which make the building or premises unsafe, dangerous or hazardous, the fire code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the fire code official by this code. . . .

Section 110 – Unsafe Buildings

§ 110.1 – General. If during the inspection of a premises, **a building or structure, or any building system, in whole or in part, constitutes a clear and inimical threat to human life, safety or health, the fire code official shall issue such notice** or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section, **and shall refer the building to the building department** for any repairs, alterations, remodeling, removing or demolition required. (emphasis added.)

§ 110.1.1 – Unsafe conditions. Structures or existing equipment that are or hereafter become unsafe or deficient because **of inadequate means of egress or which constitute a fire hazard,** or are otherwise dangerous to human life or the public welfare, **or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition.** (emphasis added.)

§ 110.1.2 – Structural hazards. **When an apparent structural hazard** is caused by the faulty installation, operation or malfunction of any of the items or devices governed by this code, **the fire code official shall immediately notify the building code official** in accordance with Section 110.1. (emphasis added.)

§ 110.2 – Evacuation. The fire code official or the fire department official in charge of an incident shall be authorized to order immediate evacuation of any occupied building deemed unsafe where such building has hazardous conditions that present imminent danger to building occupants.

§ 110.3 – Summary abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.

Section 605 – Electrical Equipment, Wiring and Hazards:

605.1 – Abatement of electrical hazards. **Identified electrical hazards shall be abated. Identified hazardous electrical conditions in permanent wiring shall be brought to the attention of the responsible code official.** Electrical wiring, devices, appliances and other equipment that is modified or damaged and constitutes an electrical shock or fire hazard shall not be used. (emphasis added.)

Electrical hazards include:

- 605.4 Multiplug adapters
- 605.5 Extension cords.
- 605.10 Portable electric space heaters.

Chapter 7 Fire-Resistance-Rated Construction

701.2 – Unsafe conditions. Where any components in this chapter are not maintained and do not function intended or do not have the fire resistance required by the code under which the building was constructed, remodeled or altered, such component(s) or portion thereof shall be deemed an unsafe condition, in accordance with Section 110.1.1. Components or portions thereof determined to be unsafe shall be repaired or replaced to conform to that code under which the building was constructed, remodeled, altered or this chapter, as deemed appropriate by the fire code official. **Where the extent of the conditions of components is such that any building, structure or portion thereof presents an imminent danger to the occupants of the building, structure or portion thereof, the fire code official shall act in accordance with Section 110.2 [evacuation].** (emphasis added.)

- **The City and Its Fire Chief Had a Mandatory Duty to Enforce Fire Safety Standards**

Health and Safety Code § 13145 — Enforcement of building standards and regulations:

The State Fire Marshal, **the chief of any city**, county, or city and county fire department or district providing fire protection services, or a Designated Campus Fire Marshal, and their authorized representatives, **shall enforce** in their respective areas **building standards relating to fire and panic** safety adopted by the State Fire Marshal and published in the California Building Standards Code and other regulations that have been formally adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic. (emphasis added.)

Various Attorney General opinions confirm the mandatory duty of the fire marshal and the local fire department chief:

Health and Safety Code § 13145 and § 13146 provide mandatory direction to fire marshal to enforce rules and regulations he promulgates under authority vested in § 13143. (20 Ops.Atty.Gen. 31.)

Health and Safety Code § 13145 imposes a positive statutory duty (cf. 67 Ops.Cal.Atty.Gen. 331, 332-333 (1984)), upon both the State Fire Marshal and “the chief of any...district providing fire protection services” **to enforce the former's building standards and other regulations relating to fire and panic safety.** (Health & Saf. Code, § 16 [“shall” is mandatory]; People v.

McGee (1977) 19 Cal.3d 948, 958-959; 20 Ops.Cal.Atty.Gen. 31, 36-37; 7 Ops.Cal.Atty.Gen. 274, 279-280.)

Health and Safety Code Section § 13146.5 provides that the foregoing provisions,...of Sections 13145, 13146 and 13146.3 **shall so far as practicable, be carried out at the local level by persons who are regular full-time members of a regularly organized fire department of a city, county, or district providing fire protection services, and shall not be carried out by other persons pursuant to Section 34004 of the Government Code.**

- **The California Building Standards Commission’s California Building Standards Code (CCR Title 24) Imposes Mandatory Duties on The City to Prevent Injury and Death and to Enforce the California Building Code**

Duty of investigator when she/he determines there is an unsafe condition, includes:

California Building Code - Title 24, Part 10

Section 1.1.2 – Power. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability. . . safety to life and property from fire and other hazards attributed to the built environment. . . .

Section 1.8.3 – Local Enforcing Agency. **The Building department of every city, county, and council shall enforce all of the provisions of law, this code,** and all other rules and regulations promulgated by the Department of Housing and Community Development . . . (emphasis added.)

Section – 104 Duties and Powers of Code Official 104.1. The code official is hereby authorized and directed to enforce the provisions of this code.

104.4 – Inspections. The code official shall make the required inspections . . .

The code official in Oakland is the Oakland Planning and Building Department (OPBD), including but not limited to Building Permits, Inspections and Code Enforcement Services.

5. The City Failed to Comply with Mandatory Child Abuse and Neglect Reporting Requirements

The City, through the OFD and OPD, knew that the lessees and property managers, Derick Almema and Micah Allison, were illegally living in the dangerous and unsafe Ghost Ship with their three minor children. Employees and/or agents of the OFD and OPD, who are mandatory reporters under Cal. Penal Code Section 11165.7, however, failed to comply with their mandatory child abuse and neglect reporting requirements under Cal. Penal Code Section 11166(a), which specifically provides that a report must be made when the mandated reporter

“has knowledge of or observes a child” whom the reporter “knows or reasonably suspects has been the victim of child abuse or neglect.” Such report shall be made to the Alameda County Social Services Agency immediately by telephone. A written report shall be filed within 36 hours documenting the information. These reporting requirements are mandatory, and the failure to report constitutes the breach of mandatory duty by a government agency. *See B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168. *See also* Penal Code Sections 11166.05; 11165.2; 11165.3; 11165.4; 11165.6; 11165.9.

6. The Facts Show that The City knew, in the Exercise of Their Mandatory Duties, of the Unsafe, Substandard, Hazardous Conditions, and Failed to act as Mandated by Laws to Abate Them

OFD failed to execute its mandatory annual inspection program which would have identified the substandard and hazardous conditions. As stated *supra*, OFD stated, on its own website, under the Inspection page that it had an annual Commercial Inspection Program. The Program and the representations to the public regarding the program created a special duty to inspect commercial structures including APNs 25-690-10 & 11. The City breached this duty to conduct an annual mandatory annual inspection program. Furthermore, the City, knowing of the fact that APN 25-690-11 was being used as an unlicensed, unpermitted, cabaret and had not been inspected in 30 years, owed a duty to the public to advise them that, contrary to their public assertions, no inspection for safety had been undertaken.

The failure of OFD’s Commercial Inspection Program has been established as a matter of law. The Oakland Civil Grand Jury, in its June 23, 2014, Grand Jury Final Report found that OFD was in breach of its requirement to inspect all commercial activities. Grand Jury’s findings were succinctly stated:

Finding 14-24: The city of Oakland’s website states that the commercial inspection program mandates annual inspections of all commercial facilities. This provides the public with the false impression that all commercial businesses are inspected annually. The Grand Jury learned that **approximately 4,000 (out of approximately 11,000) go un-inspected each year.** (emphasis added.)

On September 24, 2014, Mayor Jean Quan responded to the Grand Jury Report ***and agreed with the finding***. She then tried to rationalize the failure and misrepresentation claiming economic difficulties led to the “browning out” of two fire stations in 2012 and 2013. Prior to Mayor Quan’s response, more than two years before the deadly Ghost Ship fire, OFD had returned to a full complement of fire stations and, therefore, had no excuse for not inspecting this facility. The City responded to the Grand Jury’s finding of misleading the public by stating “The OFD website requires an overhaul. The OFD will work with Information Department Technology Department and the Communications Unit of the City Administrator’s office making sure the Citizens of Oakland are able to get the correct information needed regarding the FPB.”

This was just political rhetoric. The City made no effort to correct the false promise so the public continued to reasonably believe that structures, including the Ghost Ship, had been inspected and found safe. After 36 people died on December 2nd, The City shamelessly rushed to change its website.

OFD's failure to conduct mandatory annual inspections caused it to breach its mandatory duty to institute mandatory procedures under section 15.08.020 of the Oakland Building Maintenance Code for abatement by repair and rehabilitation or by demolition and vacation.

This is demonstrated by the fact that when the City entered the Ghost Ship after the fire, it made determinations on December 22, 2016 of statutorily defined substandard conditions under section 15.08.340, subds. (C)(Structural Hazards), (D)(Nuisance), (E)(Hazardous Electrical Wiring), and (F)(Hazardous Plumbing) that it did not have the discretion to ignore. These findings imposed a mandatory duty under 15.08.020 to institute abatement procedures of the substandard conditions by repair and rehabilitation or by demolition and vacation. The City's failure to conduct mandatory annual inspections resulted in its failure to institute mandatory abatement, rehabilitation or demolition and vacation orders that would have prevented the deaths of 36 people and catastrophic injury to at least one survivor.

When OFD was in the structure, it knew of the dangerous/substandard conditions and breached its duty to abate them. OFD was present, inside the Ghost Ship and the other contiguous buildings and was aware that there was an illegal occupancy and unpermitted businesses riddled with unsafe, unsanitary, hazardous and substandard conditions. As far back as August of 2005, OFD and reported/recorded that the "Property Use" was a "1-2 family dwelling." In April 2014, the City was informed of large structures inside the property that were not strapped down or stable. In October 2014, the City received notice of structural construction without permits at the property. In September 2015, OFD was again present inside the Ghost Ship and reported/recorded that the "Property Use was a 1-2 family dwelling." And, in November 2016, the City was on notice that the property had been converted to a residence. Clearly, this was an unauthorized and illegal occupancy: OFD/The City knew about it and failed to exercise their mandatory duty to abate the danger.

OFD, when in the building, ignored statutorily defined substandard conditions and fire hazards. OFD inspected parts of the "Single Economic Business Unit" on the following occasions: 1-12-2010; 3-15-2010; 7-11-2011; 2-19-12; 1-10-2012; 1-10-2012; 3-7-12; 2-19-16; and 3-2-16. In several of these inspections the conditions were "non-compliant" and the facility failed two or more times. Conditions which, by law, made the facilities substandard, hazardous and dangerous were open and obvious. For example, in APN 25-690-10, another unlawful housing unit had been created with illegal and unsafe electrical wiring. This was connected to the same electrical panel the Ghost Ship was connected to. The mechanical room at in APN 25-690-09 contained conditions which, by law, were dangerous and a threat to human life and safety.

A reasonable and diligent City employee, fulfilling mandatory duties pursuant to statute, code, regulation, enactment or ordinance, should have recognized that the electrical services were

traversing boundary walls of APN 25-690-9, 10 & 11 in a hazardous and substandard manner and should have abated them as required by Law. Despite knowledge of these conditions, OFD failed not only to take any action in abatement; it breached its mandatory duty to refer the building to the Building Department or Code official. This conduct was inadequate, unreasonable, lacking in diligence and therefore negligent/negligent per se.

OFD and OPD failed to meet their statutory duties to report child abuse and neglect. Knowing of the unsafe and hazardous conditions to children living in the Ghost Ship, which amount to abuse and neglect, breached their mandatory duty to report to the conditions to the Alameda County Social Services Agency.

OPD failed to meet its statutory duty to advise OBDP of the conditions. The OPD, knowing of an unlawful business use/retail establishment, unlawful residence and underground cabaret venue which was illegally selling and furnishing alcohol, breached their mandatory duty to report the unlawful activity to the Chief of the OPD, the OFD and/or the OBDP.

OBDP, when in the building, ignored statutorily defined substandard conditions and fire hazards. Claimant is informed and believes that the OBDP was in APNs 25-690-10 & 11 on one or more occasions when there was an unlawful living unit, with out-of-code wiring, inadequate emergency signage, inadequate/blocked exits, inadequate fire protection equipment, structural hazards, faulty materials and construction, and improperly placed combustible materials. The OBDP failed to meet its mandatory duty to be reasonably diligent to examining the conditions of the building to identify, locate and abate hazardous and substandard conditions. Had they done so they would have clearly been aware of the unlawful residential occupancy, the electrical panel which had been “hacked into” with only 2 breakers providing electricity for the entire Ghost Ship/Satya Yuga, unsafe and structurally unsound perforations in the joint wall of APD 25-690-10 & 11 including the conduit encasing the power as well as a doorway sized hole on the second floor which was used by inhabitants of the Ghost Ship to access bathrooms in 25-690-10.

Attached to the panel in which the “Satya Yuga” breakers resided, was an unsafe out-of-code transformer. It should have been apparent to even a careless, negligent, OBDP or OFD official that the breakers, panel and transformer had been constructed without permits and were inappropriate for their intended purpose and were, therefore, hazardous, substandard conditions presenting an imminent risk of fire and danger to life, health and safety.

The City/OBDP, did identify and record unlawful and deadly conditions in APN25-690-11, including but not limited to those enumerated in in the Laws referenced above. These conditions included violations which created a threat to life from fire including, but not limited to, an unlawful conversion to residential use, unpermitted businesses, improper fuel conditions which created a risk of fire, improper smoke detectors and/or unsafe bedroom security bars, and blocked exits. Likewise, The City/OBDP was informed of those same unlawful conditions by members of the public including clear and unambiguous notice that APN 25-690-11 had unlawfully been converted to residential use and that the conditions therein were hazardous to

life and safety. The City failed to exercise their statutory obligations to further evaluate, identify remedy, abate, or make safe the structures although it had the legal authority to enter, repair, order the buildings vacated and even have them torn down.

The City, OPD, OFD and OPBD breached their mandatory duties. The City knew or should have known that the Ghost Ship APN 11-690-11 and Parcels 11-690-9 & 10 were rife with violations which triggered a mandatory duty to act and abate, which they failed to do. The City, through the OFD, OBPD and OPD, and other agents, employees and contractors of The City were present at the Ghost Ship on numerous occasions, including emergency calls for service for other fires, medical emergencies, claims of people being falsely imprisoned, etc. The City also took, and received from others, photographic evidence (even some provided by the owner's representative) showing the existence of substandard conditions in and around the Ghost Ship. These photos, some taken by OBPD employees demonstrate that The City had actual knowledge of the dangerous conditions, including those on the sidewalk, with sufficient time to have acted to prevent this tragedy.

The City should have acted immediately to abate conditions which posed an imminent, hazard to life, limb and public welfare by declaring the property substandard, unsafe, unsanitary, a public nuisance and unfit for habitation or operation. As has been confirmed by this tragedy, it posed a serious, imminent, hazard to life, limb and public welfare. The City had a mandatory duty to order the conditions immediately abated and that the building to be vacated and secured against unauthorized entry. The City failed to do so.

As referenced above, the City did fail to meet its mandatory duties and was in breach of its duty to act reasonably. The City's breaches of duty were a substantial factor in the injuries suffered by the Claimant. The City's negligence in failing to meet its duties established under the Laws is why the substandard and dangerous conditions at the Ghost Ship were allowed to develop and exist. This was a substantial factor in causing Claimant's injuries and damages. Had The City fulfilled its mandatory duties established under the Laws, the Claimant would not have been in a dangerous, substandard, hazardous building on December 2, 2016, and would not have been injured and/or killed.

7. The City Failed to Comply with Mandatory Work/Live Unit Ordinances

Based on its long use as a work/live unit prior to the date of the incident, the Ghost Ship falls under the City of Oakland Planning Ordinances ("COPO") definition of an "enclosed nonresidential facility." See COPO Section 17.10.720. Such facilities are specifically intended to accommodate, "Civic, Commercial, Industrial, or Agricultural or Extractive Activities and which are separated from adjacent areas on all sides by walls pierced only by windows, vents, or customary entrances and exits." *Ibid.*

The City of Oakland Planning and Building Code does not allow persons to reside in nonresidential industrial buildings unless said building has been properly designated and permitted as a “live/work” building. Such facilities must comply with all provisions of City of Oakland Live/Work Building Code and the California State Building Code. As a preliminary condition of occupation by residents, such buildings must first be properly zoned for such use.

The Ghost Ship was not so zoned. Had the City of Oakland enforced applicable zoning requirements, the Ghost Ship would not have been occupied by residents, their gear and their personal property at the time of the subject fire. This would have eliminated the dangerous use of chains of “power strips” throughout the building to provide electrical power to personal devices, including personal heaters, refrigerators, computers, televisions, stereos, lights, small appliances, portable air conditioners, and a wide range of other electrical devices.

Also per the Code, establishment of a work/live unit shall only be permitted if the building’s design complies with all applicable building codes, including those related to building egress, safety, structural integrity, access, fire safety, electrical, plumbing and ventilation. This includes without limitation all applicable California building codes and regulations that govern life safety issues, includes rules regarding structural and fire safety as well as myriad other aspects of actual physical construction intended to protect building occupants. This also includes provisions of the California Fire Code, part of the California Code of Regulations, Title 24, Parts 9 and 10, et seq. As set forth herein, the Ghost Ship did not comply with any regulations intended to protect human life.

C. The City Is Liable for Failing to Warn of Hazardous Conditions

As a result of the aforementioned knowledge and conduct, a special relationship existed between employees, agents and/or representatives of The City and Claimant as a member of a foreseeable, known and identifiable group of individuals, including attendees of music events inside the Ghost Ship.

As a result of the foregoing, The City knew or should have known of the unsafe and dangerous conditions at the Ghost Ship, which could result in imminent peril to a foreseeable group of individuals at the Ghost Ship, which was not readily discoverable by them.

The unsafe and dangerous conditions included a foreseeable threat of harm to those who would be entering the Ghost Ship to attend music events and those staying at the Ghost Ship. Despite knowledge of the unsafe and dangerous conditions inside the Ghost Ship, The City failed to warn this foreseeable, known and identifiable group of the unsafe and dangerous conditions.

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D. The City Is Liable for Dangerous Condition of Public Property

The City of Oakland owns and/or controls the sidewalk and the surrounding and adjacent property to the Ghost Ship and adjacent buildings and property at the incident site. In addition to the other statutes set forth herein, The City is liable for Claimant’s injuries and damages pursuant to Government Code Sections 818.6, 830 & 835 et seq., including without limitation Section 835.2.

As set forth in Section 830(a), “‘Dangerous condition’ means a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used.” “‘Protect against’ includes repairing, remedying or correcting a dangerous condition, providing safeguards against a dangerous condition, or warning of a dangerous condition.” (Section 830(b).)

The City, as a public entity with ownership and/or control over the sidewalk had a duty to protect the public against harms caused by the negligent design, construction, operation, existence, maintenance, inspection, modification and/or repair of its sidewalk and the adjacent property.

The City had duties under the Oakland Code of Ordinances, including Chapter 12.08 “Encroachments,” with respect to placement, removal and abatement of sidewalk encroachments in front of the Ghost Ship. In fact, The City had a mandatory duty under section 12.08.140(d) to remove the encroachments that existed on the sidewalk. This section (which also applies to The City’s liability in Section 1(B), *supra*) provides that when the encroachment is not properly abated, the “*the Director of Public Works shall order city forces to remove said encroachment and/or restore the public area and shall charge all costs incurred by the city for such removal and/or restoration plus twenty (20) percent to the permittee or owner of record.*” (emphasis added.)

Here, there was a dangerous condition of public property that created a substantial risk of injury to members of the public, which include the Ghost Ship victims, when they used the City’s property and the adjacent property, including the Ghost Ship, with reasonable care and in a reasonably foreseeable manner at the time of the incident.

Claimant is within the general class of persons that one reasonably would anticipate might be threatened by the City’s conduct; and the harm suffered by Claimant is within the general class of harms that one reasonably would anticipate might result from the City’s conduct.

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2. THE NAME OR NAMES OF PUBLIC EMPLOYEE OR EMPLOYEES CAUSING THE INJURY, DAMAGE, OR LOSS, IF KNOWN:

Claimant does not know the identity and/or extent of involvement of all City personnel involved, but they include employees, agents and/or representatives of the OPD, OFD, and OPBD. Investigation is just beginning and shall continue.

Claimant notes that she or he has been denied the opportunity to inspect the property before or contemporaneously with the inspection conducted by the OFD and Bureau of Alcohol, Tobacco and Firearms ("ATF") at the behest of City of Oakland. As a result, Claimant has been denied the opportunity to identify, categorize and inspect any of the objects, materials, documents or other evidence removed by ATF or OFD as part of their investigation; denied the opportunity to photograph or otherwise document the relative position of those objects in situ before their removal, and denied the opportunity for inspection of the property in situ by experts in the fields of arson, electrical systems, construction, building planning and building codes, architecture, and the like. At the time this Master Claim was filed, Claimants have yet to receive a copy of the OFD or ATF Report on its investigation, or any portion thereof. To the extent this information was and remains unavailable at the time this Master Claim was filed, Claimant's ability to articulate all possible violations of mandatory duties, including negligence in the exercise of ministerial duties, has been compromised for reasons beyond the control of Claimant. In light of this, Claimant, who had no control over or access to the subject property prior to the OFD and ATF's inspection and removal of critical materials, should not be prejudiced with respect to any future pleadings in this matter, including any Complaint filed against the City that alleges additional violations of duties that could not reasonably have been known to Claimants at the time this Claim was filed and served.

All of the statements made in this claim are upon information and belief.