



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Legitimization

August 22, 2012

George Hargreaves  
Hargreaves Associates  
398 Kansas Street  
San Francisco, CA 94103

<b>Site Address:</b>	398 Kansas Street
<b>Assessor's Block/Lot:</b>	3958/001G
<b>Zoning District:</b>	PDR-1-D
<b>Staff Contact:</b>	Corey Teague, (415) 575-9081 or <a href="mailto:corey.teague@sfgov.org">corey.teague@sfgov.org</a>

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Dear Mr. Hargreaves:

This letter is in response to your request for a Letter of Legitimization per Planning Section 179.1 regarding the property at 398 Kansas Street. This parcel is located in the PDR-1-D Zoning District and a 45-X Height and Bulk District. The request is to legitimize the existing office use on the entirety of both floors in the existing two-story building, which total 12,000 gross square feet.

### Procedural Background

The Department received the request for legitimation of office space at 398 Kansas Street on January 4, 2012. Staff reviewed the request and associated materials and the Zoning Administrator issued a 30-day public notice of the intent to issue the Letter of Legitimization on July 16, 2012. The public notice also included a draft letter for review, and was sent to 1) all owners of property within 300 feet of the subject property, 2) all current tenants of the subject property, and 3) all individuals and neighborhood associations that had requested to receive such notice. Additionally, notice was posted on the site during the notification period. The notification period expired on August 16, 2012.

### Eligibility

The land use proposed for legitimation is deemed eligible if it meets the following criteria:

- i. The land use existed as of the date of the application;

*Lease documents, business tax documents, building permits, utilities bills, and owner documentation indicate that office use (d.b.a. Hargreaves Associates – a landscape architecture firm) occupied the entire building as of January 4, 2012.*

- ii. The land use would have been principally permitted or permitted with conditional use authorization under provisions of the Planning Code that were effective on April 17, 2008;

*Prior to the Eastern Neighborhoods rezoning, the subject property was located in the M-1 Zoning District, which principally permitted office uses.*

- iii. The land use would not be permitted under current provisions of the Planning Code;

*The subject property is located in the PDR-1-D Zoning District, which prohibits office uses except in designated landmark buildings.*

- iv. The land use either has been (1) regularly operating or functioning on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1, or (2) functioning in the space since at least April 17, 2008, and is associated with an organization, entity or enterprise which has been located in this space on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1;

*Lease documents, business tax documents, building permits, utilities bills, and owner documentation indicate that office use (d.b.a. Hargreaves Associates) occupied the entire building and has been regularly operating for no less than 2 years prior to January 19, 2009, the effective date of Planning Code Section 179.1.*

- v. The land use is not accessory to any other use;

*The subject office uses are principal uses and are not accessory to any other uses within the building.*

- vi. The land use is not discontinued and abandoned pursuant to the provisions of Planning Code Section 183 that would otherwise apply to nonconforming uses.

*Lease documents, business tax documents, building permits, utilities bills, and owner documentation indicate that the building has remained occupied during the required period.*

## Determination

It is my determination that the request for legitimization of the existing 12,000 gross square feet of office use on the entirety of both floors in the existing two-story building as shown on the attached plans meet all the required criteria of Planning Code Section 179.1. Therefore, the subject gross floor area is deemed legitimate office space as defined in Planning Code 870.90. A Notice of Special Restrictions shall be filed on the subject property documenting the specific building area legitimized as office space as listed in this letter and documented on the proposed plans on file with this request, prior to the approval of a site or building permit establishing such office space. This determination is **not** a project approval, or in any way a substitute for a Building Permit Application for the change of use to office space.

George Hargreaves  
Hargreaves Associates  
398 Kansas Street  
San Francisco, CA 94103

August 22, 2012  
Land Use Legitimization Letter  
398 Kansas Street

Please note that a Building Permit Application must be approved to legally convert the subject gross floor area to office. Additionally, the relevant impact fees outlined in Section 179.1(g), and elsewhere in the Municipal Code, shall be assessed as part of the Building Permit Application.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of the Letter of Legitimization. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

  
Scott F. Sanchez  
Zoning Administrator

cc: Corey Teague, Planner  
George Hargreaves, Hargreaves Associates  
Planning Commissioners  
All Parties on the Notification Request List

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**HARGREAVES  
ASSOCIATES**

ID# 10125 - SE J. BANALES  
CK# 10843 \$588, -

SAN FRANCISCO  
CAMBRIDGE  
NEW YORK  
LONDON

San Francisco Planning Department  
Zoning Administration  
1650 Mission Street  
San Francisco, CA 94103

398 KANSAS STREET  
SAN FRANCISCO, CA 94103

415 865 1811 T  
415 865 1810 F

December 21, 2011

HARGREAVES.COM

Dear Sir or Madame,

This letter is to petition the Planning Department to legalize what appears to be a legal non-conforming "office" use in our property commonly known as 398 Kansas Street.

(3958/001G)

GEORGE HARGREAVES  
MARY MARGARET JONES

**LEASES**

The use at 398 Kansas prior to our lease agreement was office on the second floor and vacant showroom on the ground level. Hargreaves Associates' lease history began in May 1999 when we leased 6,000 sf on the second floor as office from EMIC (Attachment A1). At that time an unrelated firm, Capstan, leased the ground floor as office (Attachment A2). Capstan moved out of the ground floor in September 2002 and Hargreaves Associates engaged in a lease for the entire building of approximately 12,000 sf in May 2004 (Attachment A3). The lease for the full building was amended in May 2007 with a ten year term (Attachment A4).

GAVIN MCMILLAN  
KIRT RIEDER  
CATHERINE MILLER  
KEN HAINES  
JACOB PETERSEN  
BRIAN JENCEK  
ALAN LEWIS

MATTHEW J. TUCKER  
BERNWARD ENGELKE  
MISTY MARCH  
LARA ROSE

**OWNERSHIP**

When the building was purchased in 1998, Hargreaves @ 17<sup>th</sup> and Kansas was a limited partner in the LLC 17<sup>th</sup> & Kansas (Attachment b1). The partners of Hargreaves @ 17<sup>th</sup> & Kansas were George Hargreaves and Mary Margaret Jones, principals with the firm Hargreaves Associates (Attachment B2). In 2002 Hargreaves @ 17<sup>th</sup> and Kansas purchased EMIC's majority interest in the LLC to take full ownership of the property known as 17<sup>th</sup> & Kansas LLC (Attachment B3) and in April 2007 the LLC refinanced the building's mortgage (Attachment B4).

**FLOORPLANS**

Both floors of the building have been fitted for office use as shown (Attachment C) since 1999.

**BUILDING PERMITS**

Enclosed are all building permits (Attachment D). In 1979 the property was to be converted to showroom (Attachment D1). The best I can tell from the records is this work was not done; however, a reapplication was entered in July 1981 (Attachment D2) with a certificate of final completion and occupancy on 9/29/81 (Attachment D3) for showroom. A UMB seismic upgrade permit was issued 1/9/98 (Attachment D4) where the uses were listed as retail/office. The certificate of final completion and

occupancy was issued 7/31/98 (Attachment D5). The permit inspector's records list office under building use (Attachment D6). On 10/30/98 a building permit was issued for more seismic work, enlarged bathrooms and interior improvements (Attachment D7) with the present use and proposed use both listed as office. A work completed notice was issued 9/20/99 (Attachment D8). Revisions to that application issued on 3/11/99 also list present and proposed use as office (Attachment D9) as does the permit inspection record of 9/20/99 (Attachment 10). Another building permit issued on 4/26/99 shows work necessary for altering interior partitions due to seismic work and office use with the present and proposed use listed as office (Attachment D11). The permit inspection record showing the work complete was filed on 9/20/99 (Attachment D12) with building use listed as office. The last building permit was for re-roofing and issued 8/17/07 (Attachment D13) with present and proposed uses listed as office.

UTILITY RECORDS

Attachment E

BUSINESS LICENSES ARCHITECTS & ENGINEERING OFFICE SPACE

Attachment F

TAX RECORDS

Attachment G

PROPERTY OWNERS WITHIN 300 FOOT RADIUS

Attachment H

Hargreaves Associates has been part of the Potrero Hill Neighborhood for many years and we hope to remain part of the fabric of the community for years to come. As I'm sure you can understand, anyone would be confused when looking at the permit history on file with your department for this property. We were always of the opinion that our property was legally designated as "office use" as the most recent permits on file and building drawings seem to reflect such. However, now that the City has rezoned our property and we've been made aware of your Amnesty Program, we would like your department to confirm an Office Designation for us.

If we need to provide anything else we would be happy to do so but I believe this is everything needed for the application. If you have any questions or wish to view the property please do not hesitate to contact me.

Sincerely,

  
George Hargreaves