This letter is in response to your request for a Letter of Legitimization per Planning Code Section 179.1 regarding the property at 808 Brannan Street. This parcel is located in the UMU Zoning District and a 68-X Height and Bulk District. The request is to legitimize the existing office space located on the basement level, ground floor and mezzanine, and second floor of the existing building, totaling 45,723 gross square feet.

Procedural Background

The Department received the request for legitimization of office space at 808 Brannan Street on December 13, 2011. 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 January 27, 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 Department received one letter from a member of the public expressing concerns about the Legitimization process. The notification period expired on February 27, 2012.

Eligibility

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

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

The building was vacated in 2011 by the previous office tenant. However, the past office use outlined in Section iv below has not been abandoned, no different use has been established in the buildings since the previous office tenant, and the space has been subsequently marketed as office space.
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-2 Zoning District, which principally permitted office uses.

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

The property containing the subject building is located in the UMU Zoning District, which prohibits office use on the ground floor pursuant to Planning Code Section 803.9(h), except those specific office uses listed in Section 843.65A. General office use may be permitted in the entire building within the UMU Zoning District if it is a historic building that meets the criteria of Section 803.9(c). However, the subject building does not meet the criteria of Section 803.9(c). Therefore, only the 22,837 gross square feet of office use on the ground floor and mezzanine is eligible because it cannot be permitted under the current provisions of the Planning Code.

iv. The land use either has been (1) regularly operating for 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;

The entire building was used as the corporate office of Georgiou Studio – a clothing design company – from 1986 to 2011. This is supported by 1) a signed affidavit by the former owner and tenant, George Georgiou, 2) historical data from the San Francisco Office of the Assessor, 3) previous Building Permits, 4) historical real estate and phone book listings, and 5) photographs. Additionally, there is no indication that the subject building was used for any land use other than office during the relevant period of eligibility.

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

The subject office use occupied the entire building as the principle use, and included an 1,842 gross square foot accessory retail space.

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.

The documentation above indicates that the office space remained occupied during the required period, has been vacant for less than three years, and no other land use has since been established. Therefore, the office use has not been abandoned.
Determination

It is my determination that the request for legitimization of the 45,723 gross square feet in the entire existing building does not meet the eligibility requirements of Planning Code Section 179.1. However, the 22,837 gross square feet of office use on the ground floor and mezzanine of the subject building as shown on the attached plans, meets all the required criteria of Planning Code Section 179.1. Therefore, the 22,837 gross square feet of office use on the ground floor and mezzanine 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, attached as Exhibit A, and the appropriate impact fees shall be paid, 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.

Please note that while the office area legitimized pursuant to Section 179.1 is less than 25,000 gross square feet, the conversion of the entire building to office space is well above that threshold. Therefore, before a Building Permit Application may be approved to legally convert the entire building to office, this project must (1) undergo an Annual Limit review for office space before the Planning Commission per Planning Code Section 321, and (2) pay the appropriate legitimization fee and other related impact fees.

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
REOF XIII, LP c/o Greg Flynn
Planning Commissioners
All Parties on the Notification Request List
December 9, 2011

VIA MESSENGER

Scott Sanchez
Zoning Administrator
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 808 Brannan Street

Dear Mr. Sanchez:

We request a letter of legitimization pursuant to Planning Code Section 179.1 concerning the property at 808 Brannan Street. We represent the current owner, named REOF XIII, LP.

808 Brannan Street is located in Assessor’s Block 3780, Lot 004D. The property is situated within the UMU district and 68-X height and bulk district. 808 Brannan Street is on the NW corner of Brannan Street and 7th Street, and also has frontage on Langton Street.

808 Brannan is developed with a two-story, 45,723 square foot building containing a partial basement and two mezzanines. The building has been used for approximately the last 25 years as office, with the exception of one small retail space on 7th Street equal to 1,842 square feet. It was occupied on this basis by its owner-occupant until June of this year, at which time it was vacated. Attached as Exhibit A are floor plans showing the location of the recent uses; attached as Exhibit B are floor plans showing the proposed uses.

Legitimization of Office Space.

This letter requests legitimization of the entire building as office, other than 1,842 square feet of retail on the ground floor. Retail is an “as of right use” on the ground floor and does not need legitimization. Thus the total square footage of office to be legalized is 43,881 square feet. The building’s area, as per current BOMA standards, breaks down as follows:

S:\Clients\Flynn-808 Brannan\12-8-11 Legitimization Letter.doc
Mr. Scott Sanchez  
December 9, 2011  
Page Two

<table>
<thead>
<tr>
<th>Floor Type</th>
<th>Square Feet</th>
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<tbody>
<tr>
<td>Basement</td>
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<tr>
<td>First Floor (excl. Retail)</td>
<td>15,763</td>
</tr>
<tr>
<td>Retail</td>
<td>1,842</td>
</tr>
<tr>
<td>First Floor Mezzanine</td>
<td>5,232</td>
</tr>
<tr>
<td>2nd Floor</td>
<td>16,639</td>
</tr>
<tr>
<td><strong>Total Building</strong></td>
<td><strong>45,723</strong></td>
</tr>
<tr>
<td><strong>Less Retail</strong></td>
<td><strong>(1,842)</strong></td>
</tr>
<tr>
<td><strong>Total Office</strong></td>
<td><strong>43,881</strong></td>
</tr>
</tbody>
</table>

This letter also requests that the owner be allowed to shift the location of the retail space to a different side of the building, the Langton Street side, where it will be more viable as retail space as it will have its own separate entrance for public use. The retail use was formerly part of the office use of the former owner occupant, George Georgiou, whose company was known as 808 Brannan Street, Inc. The proposed new office tenant may not have the need for retail space, in which event the location of the retail space in the middle of its office space is inefficient. As a result, the retail space, in the same amount, will be shifted in location to where it can be rented to a separate tenant and yet still be directly accessible to the public - in this case, accessible from Langton Street. The attached floor plans show both the space in its existing location and its proposed new location.

Pursuant to Planning Code Section 179.1(b)(2), a property is eligible for legitimization is if it meets the following criteria:

(A) The land use existed as of the date of the application;

A Declaration signed under penalty of perjury by the authorized signatory of the former owner-occupant, George Georgiou of 808 Brannan Street, Inc., indicates office use existed in the entire building of 808 Brannan Street, except for 1,842 square feet of retail use on the ground floor. He purchased the building for his occupancy in 1986, and vacated the building in 2011, after transferring ownership to a new party as of September 3, 2010.

The current owner is in negotiation with a prospective tenant (a fast growing San Francisco business) to lease the space as office use once a legitimization request is approved.

(B) 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-2 Zoning District, which principally permitted office use.

(C) An office use in the entire building would not be permitted under current provisions of the Planning Code: office use is now allowed on only one of the three stories. (Retail is allowed as a matter of right in the district, before and after the rezoning. As a result, it need not pay legitimization fees).

The property is located in the UMU Zoning District. Sections 843.66 and 803.9(h) permit office use only on the upper floor. Office use has recently existed in the subject building on all floors consisting of the basement, ground floor, two mezzanines, and second floor (excepting the 1,842 square feet devoted to retail use on the ground floor). Since there are no permits showing any office space, this office space is subject to Section 179.1.

(D) 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;

The following documentation indicates the office use has been regularly operating or functioning on a continuous basis for no less than 2 years prior to the effective date of the Section 179.1:

1. A Declaration (attached) signed under penalty of perjury by the former owner indicating office use existed in the entire building of 808 Brannan Street except for 1,842 square feet, starting when he bought in building in 1986 and continuing until 2011;

2. Assessor's Records (attached); and

3. Photographs of the most recent user's office use (attached).

4. Tenant improvement permits showing that in the years 1999 to 2000, contractors and/or architects obtained Building Department approval for office use throughout the building.

According to Planning Code Interpretation 179.1(b)(2)(D)(1), "For purposes of this subsection, this criterion shall be considered satisfied even if a such continuous basis was
interrupted by a period of vacancy so long as (1) the total period of vacancy was less than one year, (2) the space in question was actively being marketed for occupancy by the land use in question during such vacancy, and (3) the space in question has been occupied for at least two years by the land use in question.”

The current owner and tenant vacated the property in 2011, a period of less than one year ago. Since that time, the property has been actively marketed for office use. Prior to that time, the property had been used as office for a period extending back to 1986.

(E) The land use is not accessory to any other use;

The office use occupied the entire building with the exception of 1,842 square feet devoted to retail space.

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

The building currently is vacant. The former owner occupied the building as its headquarters. The former owner vacated the building in June, 2011. Thus, the building has not been vacant for a period of three or more years and therefore, the office use is not considered discontinued or abandoned.

In addition to the plans showing the office that we are seeking to legitimize, we also enclose the required notification materials, and a fee in the amount of $535.50.

Relocation of Legitimized Office Space.

This letter also requests a determination that the office space located on the opposite side of the building (on Langton Street) may be relocated to an area that was occupied by the retail space, with no change in the square footage of retail space. We ask that you determine this relocation is permissible.

We believe Section 179.1 allows the relocation. Section 179.1(d) states “Such application may not involve any expansion or intensification of the use in question. Any proposed expansion or intensification must be made under separate application and is subject to all current provisions of this Code.” The relocation of the office use from the basement to the 7th Street frontage would not involve an expansion or intensification of the office use because the new office space area would not cause the total office space to exceed the amount of office space used when the Eastern Neighborhoods rezoning went into effect.
Based on the above information, we request that you determine that 43,881 gross square feet of office use, per the attached plans, meets all the required criteria of Planning Code Section 179.1. Therefore, the office use will be deemed legitimized office space that can continue indefinitely unless converted to an allowed use, or abandoned for a period of three years or more.

Please do not hesitate to contact me should you have any questions or comments.

Very truly yours,

M. Brett Gladstone

Enclosures

cc: REOF XIII, L.P.
Mr. Corey Teague, Planning Department (via messenger)
DECLARATION OF GEORGE GEORGIU

I, George Georgiou, purchased property located at 808 Brannan Street, San Francisco, CA 94103, also known as 572 7th Street, in the year 1986. The property consists of two separate parcels with two building structures that share a party wall and are connected by structural supports and architectural connections. The Assessor Parcel Numbers are 3780-004D for 808 Brannan Street and 1780-004F for 572 7th Street. In 1996, I also purchased a parcel of land on 945 Langton Street, listed on the record of title as "Lot 84 being a re-subdivision of Parcel 3780-004A", which has no structure located on it.

During my ownership of the property, I transferred ownership to a corporation, 808 Brannan Street, Inc., which I owned a controlling interest. The property has since transferred ownership to a new owner as of September 1, 2010. I owned the property for more than twenty-four years, but no longer have any ownership interest in the property, although I do still occupy the first floor space.

The property consists of two buildings. The first being 808 Brannan Street, which is a two story brick building located between 7th Street and Langton Street. The floor print of this building is 160' along Brannan Street and 110' along 7th Street and along Langton Street. Please refer to the attached San Francisco Assessors Map. The total gross square footage of the first story of the building equals 17,600 sq. ft. There is a Mezzanine also on the first floor of the building, adjacent to Langton Street, which totals an additional
2,210 sq. ft. The total gross area of the first floor including the Mezzanine equals 19,810 sq. ft. Within this total square footage, my retail clothing location exists with an entrance leading to 7th Street. My retail location has been in existence since the year 2005. The square footage of the retail location is 1,842 sq. ft. This building, with exception to the retail space, has always been used as office space for my corporate offices during my twenty-four years occupying the space since 1986.

The second building, which is on a separate parcel, (Parcel 2740-004F) is an 8,000 sq. ft. structure that has been used as a warehouse for my business since 1986.

Although my business has slowed, and I have reduced staff since 2007, I have continuously occupied the entire first floor and first floor mezzanine for my corporate offices in the 808 Brannan Street location.

George Georgiou declares under penalty of perjury that the foregoing is true and correct.

Dated this January 14, 2010

George Georgiou

State of California
County of San Francisco
Subscribed and sworn to (or affirmed) before me on this 14th day of January 2010, by George Georgiou, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature

DEBORAH KERESZTURY
Commission # 1861694
Notary Public - California
San Francisco County

Attachment: San Francisco Assessor's Yap
APN: 35-3780-4D
Type of Appeal: Prop 8
Year: 1995
Date Filed: _/_/_.
Property Location: 808 Brannan Street
Applicant's Name: John Vlahoyiannis
Phone: (415) 554-8010
Agt./Tax Rep./Atty: Anthony Martorana
Phone: (415) 982-4733
Applicant supplied appraisal? Yes
For New Base Value: Event Date: 3/1/95
Supp Notice Date: _/_/

ASSessor's VALUE | APPLICANT'S VALUE OPINION | Recommended Value
---|---|---
Land $1,000,000 | Land $1,000,000 | Land $1,000,000
Imps. $2,500,000 | Imps. $2,000,000 | Imps. $2,000,000
Total $3,520,000 | Total $3,000,000 | Total $3,000,000

I. Property Description:
Present Use: office
Zoning: M-2
Land Area: 17,975 sq.ft.
Imp. Area: 39,622 sq.ft.
Stories: 2
Year Built: 1930
Quality & Class: Good
Land Util. (%): _

II. Issue(s):
Decline in Value. Proposition #8 for the 1995-96 Tax year

III. Contents of Attached Valuation:
Market Approach
Income Approach

IV. Conclusions and Recommendations:
1995 Market Value based on Income & Market Approach is $3,000,000

Jack Renault
1/22/97
Appraiser

Jack Renault
Principal Appraiser
808 BRANNAN
Office

Entrance
Reception

Office Space
Building Lobby

Anne C. Lawrence
415-533-6980
hancockproperties.com
APPLICATION FOR BUILDING PERMIT
ADDITIONS, ALTERATIONS OR REPAIRS

FORM A
OVER THE COUNTER ISSUED

NUMBER OF PLAN SETS: 5

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

DESCRIPTION OF BUILDING AFTER PROPOSED ALTERATION

INFORMATION TO BE FURNISHED BY ALL APPLICANTS

IMPORTANT NOTICE

NOTICE TO APPLICANT

APPLICANT'S CERTIFICATION

HISTORY CERTIFICATE AND AGREEMENT THAT IF A PERMIT IS ISSUED FOR THE CONSTRUCTION WITHIN THE PERIOD COVERED BY THE PERMIT AND ALL LAWS AND ORDINANCES THEREOF WILL BE COMPLIED WITH.

[Signature of Applicant or Agent]
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<th>Conditions and Stipulations</th>
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I have signed below, on behalf of the owner, the individual or party responsible for the request above, and have had it certified as being true and correct.

**Mary Knutson, 2/4/00**

Owner's Authorized Agent
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**Note:** The document appears to be a receipt for an application filing fee for a building permit or similar application. The details include the date, name, and fee paid. The table format shows the breakdown of the fee.
APPLICATION FOR BUILDING PERMIT
CITY AND COUNTY OF SAN FRANCISCO
ADDITIONS, ALTERATIONS OR REPAIRS
DEPARTMENT OF BUILDING INSPECTION

APPLICATION IS HEREBY MADE TO THE DEPARTMENT OF FORMS OTHER AGENCIES REVIEW REQUIRER BUILDING INSPECTION OF SAN FRANCISCO FOR

NUMBER OF PLAN SETS 7
INFORMATION TO BE FURNISHED BY ALL APPLICANTS

LEGAL DESCRIPTION OF EXISTING BUILDING

J A OFFICIAL DESCRIPTION OF EXISTING AFTER PROPOSED ALTERATION

NO
YES

IMPORTANT NOTICES NOTICE TO APPLICANT

MANLESS USE Th. e(ttt N N• PC* SEnt(E NNnttC

MANLESS OCC. IN N N. UN N N., F 

Pnt. ItS. E.t.. SCN. cad.. F. ANdç A. xd .

Pnt. ItS. E.t.. SCN. cad.. F. ANdç A. xd .

NOTE: If_COPY;text.xml

DEPOSIT REFUNDED FEE IF APPEALED.

FIRST APPOSED PERMIT NO WORK BEGINS IS STARTED

NO DIVISION OF BUILDING INSPECTION

APPROVAL OF ALL APPLICANTS CERTIFICATION

APPROVED: 808 BROADWAY 5-15 40

APPROVED: 808 BROADWAY 5-15 40
808 BRANNAN STREET
CLARIFICATION OF RECORD

SITE PLAN
1/16"=1'-0"

SCOPE OF WORK DESCRIPTION

BUILDING CODE INFORMATION

PROJECT ADDRESS
808 BRANNAN STREET
SAN FRANCISCO, CA

APPROVED CODES
BRICK MECHANICAL CODE AND S.F. AMENDMENTS
2008 CALIFORNIA ELECTRICAL CODE AND S.F. AMENDMENTS
2008 CALIFORNIA ENERGY CODE
2008 CALIFORNIA FIRE CODE & S.F. AMENDMENTS
2008 CALIFORNIA PLUMBING CODE & S.F. AMENDMENTS

FOR ADMINISTRATIVE PURPOSES ONLY

PROPOSED TYPE OF CONSTRUCTION
R-OF

LISTING OF DEFERRED SUBMITTALS
NONE

SYMBOLS LEGEND

COVER SHEET

A-1