



# SAN FRANCISCO PLANNING DEPARTMENT

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## Letter of Determination

September 9, 2016

Dan Gershwin  
Coblentz Patch Duffy & Bass LLP  
One Montgomery Street, Suite 3000  
San Francisco, CA 94104

<b>Name:</b>	Rainbeau Building Associates, LLC
<b>Site Address:</b>	149 Bluxome Street
<b>Assessor's Block/Lot</b>	3785 / 022
<b>Zoning District:</b>	WMUO (Western SoMa Mixed Use – Office)
<b>Staff Contact:</b>	Ming Yeung, (415) 575-9183 or <a href="mailto:ming.yeung@sfgov.org">ming.yeung@sfgov.org</a>
<b>Record No.:</b>	2016-009336ZAD

Dear Mr. Gershwin:

This letter is in response to your request for a Letter of Determination regarding the property at 149 Bluxome Street. The subject property is located in the WMUO (Western SoMa Mixed Use – Office) Zoning District and 65-X Height and Bulk District. The request seeks a determination as to whether the property was legally converted in 2000 from a Light Manufacturing use to an Office/Business Service use to allow a new prospective office tenant to obtain building permits for interior tenant improvements without additional change of use approvals.

### Background and History

As noted in your letter, prior to 1999 the property was in Light Manufacturing use for garment assembly and production. At that time, the property was zoned SLI (Service/Light Industrial) which prohibited office uses, as then defined under the Planning Code. In late 1999, the owner of the property (Rainbeau Building Associates) sought to lease the property to the Transilluminant Corporation (doing business as Encirq) for multimedia use. Encirq was an internet startup company that provided products turning standard reports, bills and statements into interactive portals that are published online. On February 17, 2000, a Letter of Determination was issued by the Planning Department determining that the Encirq multimedia use was permitted in the SLI district as a Business Service use under the then-existing definition in Planning Code Section 890.111. On August 23, 2000, Building Permit No. 2000.05.01.8664 was issued to Encirq for tenant improvements at the property for the Business Service use and for the change in use from Light Manufacturing to Business Service. The permit was approved by the Planning Department with the following note: "As per plans & application, tenant improvements. Letter of Determination dated 17 Feb 2000 permits office use in SLI district..." According to your submittal, the tenant improvements were completed on December 27, 2000, however, the permit did not receive a Final Inspection from the Department of Building Inspections (DBI).

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In 2002, Encirq broke its five-year lease and moved out of the property after two years. The owner put the building on the market and master leased it to J.J.'s Mae, who then subleased the building to Norton LLC (dba Wolfgang's Vault). Wolfgang's Vault is an electronic commerce company that maintains a website for streaming recordings from Bill Graham's collection, and for online sale of memorabilia such as concert clothing and posters. Wolfgang's Vault leased the building from 2002 to 2012 and did not perform any tenant improvements during its occupancy, using the space in a manner consistent with that of Encirq.

In 2008, the Eastern Neighborhoods Plan was adopted revising the Planning Code definitions for Office and Business Service uses. Office use was re-defined to also include "multimedia, software development, web design, electronic commerce, and information technology" uses which were previously determined to fall under the Business Service use category and which describe the operation of Encirq and Wolfgang's Vault.

On November 2, 2012, Rainbeau and AVG Technologies (the current tenant), executed a lease for the property with a commencement date of December 1, 2012. AVG creates and offers anti-virus software. AVG took possession immediately and sought multiple building permits for tenant improvements. The work modified the previous tenant improvement work performed for the Encirq occupancy, and work under these permits received Final Inspections from DBI in 2013.

In 2013, the Western SoMa Area Plan was adopted, rezoning the property from SLI to WMUO. Per Planning Code Sections 845.66 and 845.83, both Office and Business Service uses are principally permitted uses in the WMUO Zoning District. Section 890.70 defines Office as including, but not limited to, "multimedia, software development, web design, electronic commerce, and information technology."

#### **Determination**

Based upon the information provided in your request, it is my determination that the property was converted in 2000 from a Light Manufacturing use to a Business Service use as per the Letter of Determination. In consideration of the permit and tenant history, as well as the subsequent amendments to the Planning Code through the Eastern Neighborhood and Western SoMa Plans, I have determined that the building contains a legal Office use and no further change of use authorization is required. To ensure that the City's records accurately reflect the legal use of the property, please contact DBI to finalize Building Permit Application No. 2000.05.01.8664.

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

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**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 this letter. 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: Property Owner  
Neighborhood Groups  
Ming Yeung, Planner