



SAN FRANCISCO PLANNING DEPARTMENT

Letter of Determination

August 8, 2017

Ms. Nicole C. Evans
Ballard Spahr LLP
2029 Century Park East, Suite 800
Los Angeles, CA 90067-2909

Site Address:	851 Beach Street
Assessor's Block/Lot:	0452/001
Zoning District:	C-2 (Community Business)
Staff Contact:	Nicholas Foster, (415) 575-6167 or nicholas.foster@sfgov.org
Record No.:	2017-008523ZAD

Dear Ms. Evans:

This letter is in response to your request for a Letter of Determination regarding the property ("Property") at 851 Beach Street. This parcel is located in the C-2 (Community Business) Zoning District, 40-X Height and Bulk District, and Northeast Waterfront Plan Area. Your letter requested a determination as to whether use of the condominium units as timeshare units (or "fractional units") at the Property would be consistent with Hotel Use, as defined by the Planning Code ("Code").

The Department of Building Inspection (DBI) Report of Residential Building Record ("3-R Report") identifies "1 family dwelling & 53 guest room with cooking & commercial" at the Property. Per your June 26, 2017 letter, you stated that the existing 53 condominium units (timeshare units) have been submitted to an existing fractional interest plan ("fractional units") as regulated by the Vacation Ownership and Time-Share Act of 2004 (California Business and Professions Code Section 11210 et seq.). Your letter also stated that these fractional units—consisting of 1-bedroom, 2-bedroom, and 3-bedroom units—all contain full kitchens.

Per Planning Code Section 102, a Residential Use is defined as "a room or suite of two or more rooms that is designed for, or is occupied by, one family doing its own cooking therein and having only one kitchen." Meanwhile, Code Section 102 defines a Hotel Use as "a Retail Sales and Services Use that provides tourist accommodations, including guest rooms or suites, which are intended or designed to be used, rented, or hired out to guests (transient visitors) intending to occupy the room for less than 32 consecutive days."

A previous Zoning Administrator Interpretation (January, 1992) stated that "a unit with a kitchen rented for a duration longer than one week but less than one month is a hotel [use]." A subsequent Letter of Determination (June 6, 2002) stated that the very presence of cooking facilities does not, in and of itself, convert a hotel use into a dwelling unit given that the underlying function of the hotel unit is a commercial use and not a residential use. Further, two additional Letters of Determination (July 26, 2004

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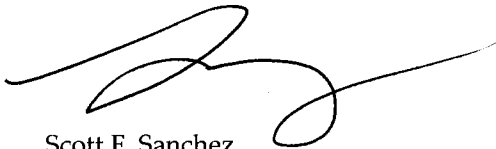
and December 13, 2012) both support the assessment that timeshare units allowing occupancy for periods not exceeding 30 consecutive days would be considered a commercial use, consistent with the definition of Hotel Use, as defined by the Code.

Based on available information, it is my determination that the use of timeshare units at the Property, with occupancy not exceeding 30 consecutive days, would be consistent with the definition of Hotel Use under the Code, regardless of the presence of cooking facilities in each of the units.

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.

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: Nicholas Foster, Planner
Property Owner
Neighborhood Groups
BBN Requestor (if any)