

Information Item

Date: January 25, 2011

To: Mayor and City Council
From: Eileen Fogarty, Director, Planning & Community Development
Subject: Transmittal of Occupancy Permit Determination for Property at 1125 Bay Street (OC09-007)

Introduction & Discussion

Attached for the Council's information is a copy of an Occupancy Permit determination for the property at 1125 Bay Street. The property consists of four units which were withdrawn from the market on September 24, 2002 by a prior owner. Pursuant to SMMC Section 4.32.130, no property or rental units which have been withdrawn pursuant to the Ellis Act shall be subsequently occupied unless an occupancy permit is obtained.

The prior property owner converted the building to a tenants in common (TIC) form of ownership. City Council Ordinance 2311 permits an undivided interest in land, coupled with the exclusive right of occupancy of four or fewer units. Pursuant to SMMC Section 4.32.130(c)(2) an occupancy permit for residential occupancy shall be approved if the Planning Director finds that the withdrawn property or rental unit is in compliance with Ordinance 2311 (TIC of four or fewer units), and the Rent Control Board has certified that the current owner(s) has complied with the requirements set forth in Government Code Sections 7060.2 and 7060.4 and with applicable regulations promulgated by the Rent Control Board. The application for Occupancy Permit 09OC-007 for 1125 Bay Street conforms to these provisions.

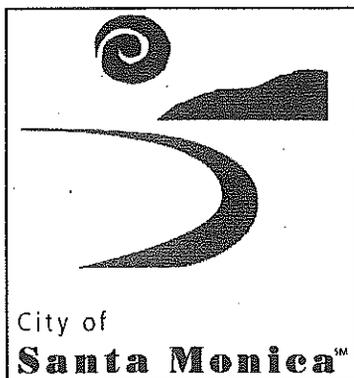
The determination granting the Occupancy Permit (09OC-007) was issued on January 25, 2011. Pursuant to SMMC Section 4.32.130(c)(4) the Planning Director shall make a

written report to the Planning Commission and the City Council within five days of approving an occupancy permit.

According to SMMC Section 4.32.130(c)(4), the decision approving this Occupancy Permit may be appealed to the Planning Commission in accordance with the provisions in SMMC Section 9.04.20.24. The decision of the Planning Commission may be further appealed to the City Council in accordance with the same provisions.

Prepared by: Gina Szilak, Associate Planner

cc: Planning Commission



CITY OF SANTA MONICA
CITY PLANNING DIVISION

**OCCUPANCY
PERMIT DETERMINATION**

Case Number:	Occupancy Permit, OC 09-007
Address:	1125 Bay Street
Zoning:	R2 (Low Density Multifamily Residential District)
Proposed Use:	Allow the occupancy and residential use of the property, which is owned as an undivided interest in land and is coupled with the exclusive right of occupancy of four units (Tenants In Common "TIC"), following withdrawal from Rent Control pursuant to the Ellis Act and conversion of the units to a TIC.
CEQA Status:	Ministerial Exemption pursuant to Section 15369 of the California Environmental Quality Act in that the project consists of the re-occupancy of four units that were removed from Rent Control via the Ellis Act. The City has applied the law to the facts as presented with no special discretion in reaching this decision.
Applicant(s):	Steven W. Casper; Hsiaoho, E. Tung and Lewei C. Tung; Janice Hou and Lu Hou; and Tri Lai
Rent Control Status:	The Rent Control Board has confirmed that the party's four units were withdrawn from Rent Control via the Ellis Act on September 24, 2002.

GENERAL PLAN & MUNICIPAL CODE CONFORMANCE

<u>Category</u>	<u>General Plan</u>	<u>Municipal Code</u>	<u>Project</u>
Permitted Use:	Multi-family	Multi-family	4-unit property withdrawn from the

	residential	residential	rental market to be occupied by property owners as tenants in common (TIC) each owning a percentage of the property.
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Comments/Conclusion: Proposed is the occupancy of a four unit property withdrawn from the rental market, pursuant to the Ellis Act (Government Code Sections 7060 et seq.) as a TIC. On April 27, 2010, the Santa Monica City Council passed Ordinance 2311 amending sections of the Municipal Code to allow property owned as tenancy in common coupled with the exclusive right to occupy four or fewer units to qualify for an occupancy permit following withdrawal pursuant to the Ellis Act. The building was constructed as a four-unit apartment, withdrawn pursuant to the Ellis Act in 2002, and sold as a TIC to four separate owners. With the adoption of Ordinance 2311, this conversion is in compliance with all applicable State, and Santa Monica municipal laws. The units are exempt from the jurisdiction of the Rent Control Law by virtue of the Ellis Act withdrawal.

This application for an Occupancy Permit (09OC-007) is:

- Denied
- Subject to separate administrative or discretionary review.
- Granted with the following findings and conditions:

FINDINGS:

1. *The proposed use (TIC of four units) is in compliance Santa Monica Municipal Code (SMMC) Section 4.32.130(c)(3), and a subdivision map and a conditional use permit are not required.*
2. *The proposed occupancy conforms to the Land Use Element of the General Plan in that the multi-family residential use will not be altered.*
3. *The proposed occupancy conforms to the Comprehensive Land Use and Zoning Ordinance in that the existing multi-family residential use will not be altered.*
4. *The Rent Control Board has confirmed that the withdrawal of the property from the rental market pursuant to the Ellis Act was completed on September 24, 2002.*

CONDITIONS:

1. Within ten (10) days of transmittal of City Planning Division approval, project applicant shall sign and return a copy of the Occupancy Permit determination prepared by the City Planning Division, agreeing to the conditions of approval and acknowledging that failure to comply with such conditions shall constitute grounds for revocation of the permit approval. Failure to comply with this condition shall constitute grounds for permit revocation, pursuant to Section 9.04.20.28.040 (SMMC).

<p>Determination by: <u>Amanda Schachter</u> Date: <u>1.25.11</u> Amanda Schachter Zoning Administrator</p> <p>Case Planner: <u>Gina Szilak, Associate Planner</u></p>
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EFFECTIVE DATE OF ACTION: _____

Acknowledgement by Permit Holder

I agree to the above conditions of approval and acknowledge that failure to comply with any and all conditions shall constitute grounds for potential revocation of the permit approval.

Signature Date

Print name here Drivers License Number
Santa Monica, California