



Planning and Development Department  
Building and Safety Division  
Office of the Building Official  
Joan MacQuarrie, Building Official

Land Use Planning Division  
Office of the Zoning Officer  
Mark Rhoades, Zoning Officer

Department of Fire and Emergency Services  
Office of the Deputy Fire Chief  
David L. Orth, Deputy Fire Chief

May 8, 2007

Lin James C & Leann  
4 Charles Hill Rd.  
Orinda, CA 94563

Jim Mason  
1010 Murray St.  
Berkeley, CA 94710

**Re: 1010 Murray Street and 1017 Folger Street, APN 053-1634-029-05**  
**NOTICE AND ORDER TO VACATE AND ABATE UNSAFE BUILDINGS AND STRUCTURES,**  
**FIRE HAZARD AND PUBLIC NUISANCE PURSUANT TO BERKELEY MUNICIPAL CODE**  
**(BMC) SECTIONS 19.28.040 (BERKELEY BUILDING CODE), 19.48.020.E (CALIFORNIA**  
**FIRE CODE § 103.4.5), 19.48.020 (CALIFORNIA FIRE CODE § 207) 23A.12.010 (ZONING**  
**ORDINANCE) AND 1.24.040**

On March 14, 2007 representatives of the Planning and Fire Departments conducted an inspection of the subject property. Present were Deputy Fire Chief David Orth, Acting Supervising Inspector Malcolm Prince, Senior Planner Greg Powell, Building Inspector Greg Heidenreich.

As a result of observations during this inspection, the Building Official, Fire Marshal and Zoning Officer have determined that the buildings and structures at 1010 Murray Street and 1017 Folger Street, APN 053-1634-029-05, are unsafe, a public nuisance and a fire hazard in accordance with Berkeley Municipal Code Sections 19.28.040 (Berkeley Building Code), 19.48.020.E, (California Fire Code § 103.4.5 and 19.48.020 (California Fire Code § 207) and 1.24.040,

**DETERMINATION OF UNSAFE BUILDING/STRUCTURE PURSUANT TO BERKELEY BUILDING CODE (BMC § 19.28.040) AND REQUIRED CORRECTIONS**

There are numerous serious violations of the Building, Electrical, Mechanical and Plumbing Codes at the buildings and structures at 1010 Murray Street and 1017 Folger Street which render them unsafe under BMC section 19.28.040, as follows:

1010 Murray Street and 1017 Folger Street, APN 053-1634-029-05

1. Installation of electrical feeders, panelboards, wireways, branch circuits, receptacle outlets, lighting, etc. without permits. (BMC 19.28.060, 19.28.080; California Building Code [CBC] 103, 106.1)
2. Installation of a direct-current (DC) photovoltaic (PV) electrical power generation, storage and distribution system without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
3. Electrical hazards including but not limited to exposed live parts, unprotected conductors, unlisted equipment, lack of working space and dedicated space, improperly secured, supported and fastened raceways and cables. (BMC 19.28.040; CBC 102)
4. Unauthorized energizing of premises electrical wiring at 1010 Murray by connection of PV system and "jumping" of 1017 Folger electrical system to 1010 Murray electrical system. (BMC 19.28.040; CBC 102)
5. Construction of loft at 1010 Murray without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
6. Construction of kitchen at 1017 Folger without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
7. Removal of two approx. 8'x8' sections of exterior walls of 1010 Murray and 1017 Folger creating an opening between buildings, done without permits and creating a fire hazard due to the removal of fire-resistive construction and unprotected openings between buildings (BMC 19.28.040, 19.28.060, 19.28.080; CBC 102, 103, 106.1)
8. Installation of shipping containers stacked two high without permits, lateral bracing, foundations, proper access and egress, and fire-resistive exterior walls. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
9. Illegal use and conversion of shipping containers to workshops without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
10. Construction of fences over six feet height without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
11. Installation of plumbing fixtures without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
12. Installation of propane-fired water heater without permits and lacking proper gas piping and vent piping. (BMC 19.28.040, 19.28.060, 19.28.080; CBC 102, 103, 106.1)
13. Installation of a wood stove without permits and lacking proper clearance to combustibles. (BMC 19.28.040, 19.28.060, 19.28.080; CBC 102, 103, 106.1)
14. Construction of wood truss roof structure above and between two, two-story shipping containers. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)
15. Installation of wood stove heated hot tub without permits. (BMC 19.28.060, 19.28.080; CBC 103, 106.1)

Corrective actions for the above violations are outlined in the ORDER TO ABATE section on page 6.

**DETERMINATION OF UNSAFE BUILDING PURSUANT TO BERKELEY FIRE CODE BMC § 19.48.020.E (CALIFORNIA FIRE CODE § 103.4.5) AND 19.48.020 (CALIFORNIA FIRE CODE § 207) AND REQUIRED CORRECTIONS:**

1. Extension cords shall not be used as a substitute for permanent wiring. (BMC 19.48.020, subsection 8506.1). Correction: Remove all extension cords being used as a substitute for permanent wiring this includes any extension cords that are attached in any way to structures or containers.
2. Extension cords only with portable appliances. Extension cords were found stapled to walls and running through walls attached to equipment that is not considered portable. (BMC 19.48.020, subsection 8506.2.2) Correction: Disconnect any extension cords from all equipment that is not portable and from any portable equipment that is not in use.
3. Temporary wiring was noted in two of the containers that were inspected and being used as workshops on the East side of the property and in 1010 Murray running along beams. Not all areas were inspected. (BMC 19.48.020, subsection 8503.1 & 2). Correction: Remove all temporary cords, wiring, cables that have been installed without an electrical permit.
4. Access to Switchboards and Panel boards. Panels were noted in closets, containers and other spaces that did not have clear access (BMC 19.48.020, subsection 8509.1, 2 & 3). Correction: Clear the workspace in front of and around all switchboards and panel boards remove any storage in the workspace (see Electrical Code). Maintain a clear and unobstructed means of access with a minimum width of 30 inches and minimum height of 78 inches to all electrical panels. Label all doors to electrical control panel rooms and mark of all disconnecting means for each service, feeder or branch circuit.
5. Abatement of Electrical Hazards. Electrical wiring with exposed conductors and unsecured electrical cable and outlets. (BMC 19.48.020, Section 8504). Correction: Provide proof that all electrical systems comply with the Electrical Code and any new work has been done under permit and all permitted work has been approved. Any portions of the electrical system that do not meet these requirements are to be isolated from any and all electrical power.
6. Stationary Lead-Acid Battery Systems. Operation of system that requires a permit. Lack of safety venting, occupancy separation, spill control, neutralization, ventilation, signs, seismic protection and smoke detection. (BMC 19.48.020, Article 64). Correction: Comply with requirements of Article 64 including obtaining a permit from the Fire Department for this type of system. Until a permit is issued the batteries are to be disconnected from all electrical systems. The batteries are to be drained of electrical charge and all acid is to be removed from the batteries. Plans of the facility and system are required for approval before issuing of any permit.
7. Heat - Producing Appliances. (BMC 19.48.020, subsection 1107.1). A number of heat producing appliances are in use on the property: a wood burning stove, propane hot water heater, kitchen range (surface burners and oven) and power generator. These appliances may only be used if they are installed and maintained in accordance with their listing and the Building, Electrical and Mechanical codes, which includes clearance from combustible materials. Correction: Provide proof of compliance with product listing and all codes or



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discontinue the use and remove the heat - producing appliances. During the inspection it was noted that the propane hot water heater was connected to an unsecured propane bottle with a rubber type hose that pass through a wall in the exterior of the building at 1010 Murray.

Disconnect this heater immediately and secure all propane bottles in a safe manner. The generator could not be accessed due to storage in front of the access doors. Do not use the generator until inspected and approved and any necessary permits are obtained. For safety reasons disconnect the generator from all electrical systems.

8. Fire – resistive construction. It appears that fire resistive construction between the building at 1010 Murray and 1017 Folger has been removed. Fire resistive construction has also been removed from walls and ceilings in 1017 Folger. In addition a number of containers and other constructed facilities are in areas where structures are required to have a level of fire resistances. (BMC 19.48.020, subsection 1111.1). Correction: Maintain fire resistive construction. Repair fire resistive construction, this will require a permit, or submit plans and obtain permits for modifications to the fire resistive construction. Discontinue any use and remove, including removing all stored materials, any containers or areas that are not constructed to meet minimum fire resistances in relationship to property lines. This includes but is not limited to the containers, stage and roof area along the property line of 1010 Murray and 1017 Folger and the property complex at 1047 Folger to the east. This is to limit the potential of fire spread across property lines. It was noted that some of the containers and facilities might be located on adjacent properties. Remove any containers or materials that are on the property of others. Mr. Mason stated that a property survey had been completed so property line locations should be known. Provide a copy of any survey and/or site plans to the City so that compliance can be determined.
9. Combustible Materials. Storage in and around the containers is not orderly and prevents reasonable and safe operation. Items were stacked in the containers being used as structures too close to the ceilings. The vertical wood lumber used to fill gaps between containers forming a very high wall is considered combustible storage at a property line that appears to be greater than 20 feet in height. (BMC 19.48.020, subsections 1103.3.2.1, 1103.3.2.2, 1103.3.2.3, 1103.3.5.1, & 1103.3.5.4). Correction: Storage of combustible materials in buildings shall be orderly. Storage shall be maintained 2 feet or more below the ceiling in nonsprinklered areas of buildings. Combustible material shall not be stored in exits or exit enclosures. Outside storage of combustible materials shall not be located within 10 feet of a property line. Storage in the open shall not exceed 20 feet. Remove this material and store in accordance with the requirements above.
10. Hot Work. Numerous types of welding equipment and open torch type equipment were noted and appeared to be used on a regular bases. (BMC 19.48.020 Article 49). Correction: Stop all hot work or obtain a permit from the Fire Department to conduct Hot Work, which includes cutting, welding, use of open torch, brazing, glass blowing or similar operations. If Hot Work is required to remove or work on containers a permit is required.
11. Evidence was found of human occupation of various containers including uses as workshops, studios, along with what appeared to be storage only. Not all containers could be inspected. In one of the few containers inspected, evidence of the container being used for sleeping purposes was found and one other container evidence of cooking with heating appliances. The containers lack required exits and are dangerous for anyone occupying these containers. It was also noted that the second floor area of 1010 Murray zoned, as a live/work space has no

legal exit. The chief is authorized to order an operation or use stopped or the evacuation of any premises, building or vehicle or portion thereof, which has or is a condition hazardous to life or property regulated by this code. (BMC 19.48.020, subsection 103.4.1.3). Correction: Stop using any and all containers for any use and empty all containers of any materials. Do not use the second floor area of 1010 Murray obtain any necessary permits before doing any work to provide the required exit, a stairway.

12. Identification Signs & Signs. (BMC 19.48.020, subsection 8001.7 & 8). Signs denoting hazardous materials including Explosives and Radioactivity were noted on some of the containers. The containers did not appear to contain either of these hazardous materials. Correction: Remove any signs (placards) that denote hazardous materials. If a container, building or area contains hazardous materials provide the required signage and advise the Fire Department of the material, quantity and location. Permits and/or additional requirements may be required.
13. Places of Assembly. (BMC 19.48.020, Article 25). In the past Mr. Mason and/or others have held events at the site that qualify as an Assembly. Mr. Mason has also advised that he has scheduled events in connection with his use of 1017 Folger along the lines of classes or conferences. The site does not have the necessary exits and other requirements for use as a Place of Assembly. Any event with an attendance of 50 or more people may be deemed an assembly. Correction: Limit any events to less than 50 people.

**DETERMINATION OF VIOLATIONS OF ZONING ORDINANCE (BMC § 23A.12.010) AND  
REQUIRED CORRECTIONS:**

**1010 Murray - Zoning Violations**

1. Failure to comply with Condition # 8 of Use Permit #03-10000001:

To date, no City building permit(s) or business license(s) have been applied for or obtained. Failure to obtain a business license and/or obtain a building permit and to commence construction is a violation of BMC section 23B.56.100.

Per BMC chapter 23B.60, the Zoning Officer may initiate proceedings to modify and/or revoke Use Permit #03-10000001 unless building and fire code violations identified within this letter, and other use permit conditions of approval, are complied with according to the schedule identified within this letter.

2. Failure to comply with Condition # 11 of Use Permit #03-10000001:

Prior to the issuance of a Building Permit, the applicant shall obtain Final Design Review approval that the building plans meet the following requirements:

- Irrigate perimeter landscape from property line in a manner acceptable to Public Works.
- Allow public to see into complex at main gate. Consider the use of shutters.
- Highlight landscaping with down lighting from property line in a manner not causing glare on public right-of-way or nearby properties

To date, no application was filed to obtain Final Design Review approval. Per BMC chapter 23B.60 the Zoning Officer may initiate proceedings to modify and/or revoke Use Permit #03-10000001 unless you submit an application for Final Design Review within **15 days** of the date of this letter.

3. Violation of BMC section 23E.80.030: Installation of a prohibited accessory structure (hot tub).

Operation of the hot tub shall cease upon receipt of this letter. If you wish to legalize the operation of the hot tub, within **15 days** of the date of this letter please submit an application for a Variance, subject to the findings for approval noted within BMC section 23B.44.030. Alternatively, you shall remove the hot tub within **30 days**.

### **1017 Folger - Zoning Violations**

4. Failure to comply with Zoning Certificate # 06-90000640:

Activities observed during site inspection do not reflect representations made in application for Zoning Certificate as operation of a 'Design and prototyping of do-it-yourself alternative energy products and projects'.

Per BMC section 23B.20.060.B, a use established that is contrary to the description or illustration in the approved Zoning Certificate is grounds for deeming the Zoning Certificate null and void. The Zoning Officer may initiate nuisance proceedings pursuant to Zoning Ordinance chapter 23B.64 unless you commence the activities described in your zoning certificate within **3 days** of the date of this letter. Alternatively, you may submit a new zoning certificate application for activities allowed by BMC section 23E.80.030.

### **CORRECTIVE ACTION TAKEN BY CITY**

Due to the severity of the life safety threats presented by the electrical hazards, the office of the Building Official has, pursuant to BMC section 19.30.040, directed PG&E to interrupt your 1017 Folger Street service connection on May 10, 2007 until all electrical code violations have been corrected.

### **ORDER TO ABATE**

The violations and conditions listed above are imminently dangerous to the health and safety of the occupants and the public. Accordingly, pursuant to BMC sections 1.24.040, 19.28.040, 19.28.060, 19.30.040, 19.30.050, 19.48.020.E, (California Fire Code section 103.4.5) and 19.48.020 (California Fire Code § 207), the building is hereby declared to be an Unsafe Building, Fire Hazard and Public Nuisance and the City therefore orders the following summary abatement:

**YOU ARE HEREBY ORDERED** to disconnect electrical wiring from PV panel, inverters, and charge controllers within 3 days of the date of this order; and to remove all batteries from the site within 3 days of the date of this order.

**YOU ARE FURTHER ORDERED** to vacate all shipping containers, buildings, and entire premises within 3 days of the date of this order. Secure site from entry within 3 days of the date of this order.

**YOU ARE FURTHER ORDERED** to disconnect propane tank from water heater within 3 days of the date of this order. Do not use water heater or either wood stove.

**YOU ARE FURTHER ORDERED** to submit plans within 10 days of the date of this order and obtain permit within 30 days of the date of this order and complete all work and obtain an approved final inspection by the City within 45 days of the date of this order to replace sections of exterior walls removed -see Building Code Violation #7 above.

**YOU ARE FURTHER ORDERED** to file a building permit application with complete plans to correct all violations of the Berkeley Building, Plumbing, Mechanical, Electrical and Fire Codes within 15 days of the date of this order; respond to all requests for revised plans within 10 days of notification by the Permit Service Center, obtain the permit within 10 days of approval by the City and complete all work within 180 of issuance of the permit. All design and construction work is required to be performed by licensed professionals in accordance with California state laws and local ordinances.

Also, in accordance with the Revenue and Taxation Code Sections 17274 and 24436.5, if portions of this building have been or are residential rental property, failure to comply with any portion of this order may result with your inability to make a tax deduction for interest, taxes, depreciation, or amortization paid or incurred in the taxable year.

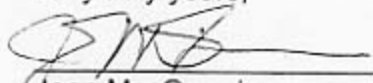
#### CITATION

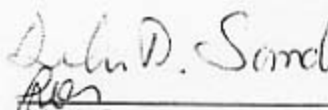
In addition, if you do not correct the violations described above, you may be cited for violating the Berkeley Municipal Code. **You may be cited for a separate violation for each date, beginning with the date of this notice.**

Maximum penalties for violations of the above may be \$2,500.00 per day. Subsequent violations may also be prosecuted as misdemeanor, which carry penalties of up to \$2,500.00 per day and six months in jail.

If you have any questions concerning this Notice and Order, please contact Malcolm Prince, Supervising Building Inspector at (510) 981-7440-Zoning Officer Mark Rhoades at 981-7410 or Deputy Fire Chief David L. Orth at (510) 981-5585.

Very truly yours,

  
Joan MacQuarrie  
Building Official

  
Mark Rhoades  
Zoning Officer

  
David L. Orth  
Deputy Fire Chief

cc: Phil Kamlarz, City Manager  
Manuela Albuquerque, City Attorney  
Deborah Pryor, Fire Chief  
Dan Marks, Director, Planning and Development  
Mark Rhoades, Land Use Manager  
Nabil Al-Hadithy, Toxics Manager  
Zach Cowan, Assistant City Attorney  
Laura McKinney, Deputy City Attorney  
David Orth, Deputy Fire Chief/Fire Marshal



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1010 Murray Street and 1017 Folger Street, APN 053-1634-029-05

Jim Hynes, Neighborhood Liaison

Gregory Daniel, Code Enforcement Unit, City Manager's Office

Malcolm Prince, Acting Supervising Building Inspector

Greg Powell, Senior Planner

Maurice Norrise, Code Enforcement Unit, City Manager's Office

Greg Heidenreich, Building Inspector

Master File

Code Enforcement File

Correspondence File

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