



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Letter of Determination

June 30, 2016

Edward Suharski  
Fortress Property Group, LLC  
580 California Street, Suite 1200  
San Francisco CA 94104

<b>Site Address:</b>	558 Sacramento Street
<b>Assessor's Block/Lot:</b>	0228/009
<b>Zoning District:</b>	C-3-O (Downtown Office)
<b>Staff Contact:</b>	Carly Grob, (415) 575-9138 or <a href="mailto:carly.grob@sfgov.org">carly.grob@sfgov.org</a>
<b>Record No.:</b>	2016-007548ZAD

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Mr. Suharski:

This letter is in response to your request for a Letter of Determination regarding the property at 558 Sacramento Street. This parcel is located in the C-3-O (Downtown Office) Zoning District and 75-X Height and Bulk District. Based upon your request, the owner of the subject property entered into a purchase and sale agreement to sell the Transferable Development Rights (TDR) available on the lot to a buyer at no cost or expense to this buyer and the property owner will not receive any of the proceeds from the transfer of TDR from the subject property. The request is to determine if the property owner is obligated to provide estimated costs for scopes of work included on a Preservation, Rehabilitation and Maintenance Plan from a Transfer Lot of TDR.

Planning Code Section 128(l)(1)(B) requires that the owner of a Transfer Lot submit for approval by the Planning Department a Preservation, Rehabilitation, and Maintenance Plan that describes proposed preservation and rehabilitation work and that guarantees the maintenance and upkeep of the Transfer Lot. This plan shall include:

1. A plan for the ongoing maintenance of the Transfer Lot;
2. Information regarding the nature and cost of any rehabilitation, restoration or preservation work to be conducted on the Transfer Lot, including information about any required life safety or disability access work;
3. A construction schedule; and
4. Any other such information as the Department may require to determine compliance with Section 128(l).

The requirements of the approved Plan shall be recorded with the final Certificate of Transfer in the Office of the County Recorder. Section 128(l)(3) also requires that within one year of the issuance of the Certificate of Transfer for the initial transfer from the Transfer Lot, the owner of the Transfer Lot shall

Edward Suharski  
Fortress Property Group, LLC  
580 California Street, Suite 1200  
San Francisco CA 94104

June 30, 2016  
Letter of Determination  
558 Sacramento Street

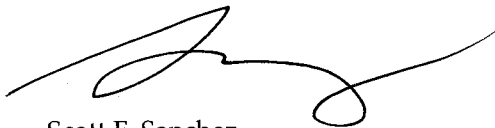
submit a status report to the Department detailing how the requirements of the approved Plan have been completed and describing ongoing maintenance activities.

Although the property owner has forfeited the proceeds from the sale of TDR, they are still obliged to meet the requirements of Section 128(l) before the initial Certificate of Transfer of TDR from the Transfer Lot may be issued. Section 128(l)(1)(B)(ii) expressly requires that information regarding the nature and cost of any work to be conducted on the Transfer Lot is included in the Preservation, Rehabilitation and Maintenance Plan. Section 128(l)(3) requires that the owner submit proof that the scopes of work included in the Plan have been completed as scheduled, such as permits, itemized receipts, inspection reports, or other related documentation. Therefore, the owner of the Transfer Lot is required to provide cost estimates for the scopes of work included in the Preservation, Rehabilitation, and Maintenance Plan, and is also obliged to provide a detailed status report of the proposed work within one year of the transfer.

**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: Carly Grob, Planner  
Property Owner  
Neighborhood Groups  
BBN Requestor (if any)

# FORTRESS PROPERTY GROUP LLC

May 18, 2016

Scott Sanchez  
Zoning Administrator  
City and County of San Francisco  
1650 Mission Street, #400  
San Francisco, CA 94103

R# 2016-007548 ZAD  
CK # 1740 \$ 645 -  
C. GROB (NE)

Mr Sanchez,

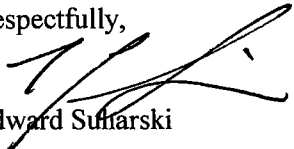
We are seeking a Letter of Determination ("LOD") relating to the sale of transferrable development rights ("TDR") from a building located at 558 Sacramento ("Property") and the specific requirements related to the proposed transaction. A copy of the Statement of Eligibility and the Application for Certificate of Transfer are attached. You will also find attached a list of recent capital improvements.

In summary, the owner of the Property ("Owner") which is the current owner of the TDR, entered into a purchase and sale agreement, in March 1, 2016, to sell the TDR to a buyer ("Buyer"). The TDRs are being sold to the Buyer at no cost and expense to the Buyer. The Owner concluded the potential value of the TDR would be nominal in comparison to the value of the building and the Owner did not want to take the time to entitle the TDR itself and find a buyer. Fortress Property Group entitled the TDR and secured the SOE on behalf of the Buyer. The Owner will not receive any proceeds from the sale of these TDR, now or anytime in the future.

The parties understand that Section 128 of the Code requires that any proceeds from the sale of TDR must be reinvested into the property from which the TDR were transferred. However, this only relates to the primary transfer. There isn't any requirement that proceeds from subsequent sales of the TDR through secondary transfers be invested into the property. In this specific case, since there aren't any proceeds, there aren't now, nor will there be, any funds available to be invested into the Property.

It is, however, understood by the parties that one of the requirements of obtaining a COT is a maintenance plan. The Owner is prepared to retain a third party to draft a maintenance plan. However, since there aren't any proceeds from the sale of the TDR, there shouldn't be any obligation by the Owner to estimate the costs of executing on the Maintenance Plan nor should there be any obligation to invest funds into the building which it has not, and will not, receive now or in the future. Additionally, it's not practical to provide an annual accounting detailing how the proceeds from the sale of the TDR are spent since, as referenced, there aren't any proceeds. We request a LOD confirming the foregoing.

Respectfully,

  
Edward Sufarski  
Manager  
Fortress Property Group LLC

Cc: Carly Grob

**RECEIVED**

**MAY 23 2016**

**CITY & COUNTY OF S.F.**  
PLANNING DEPARTMENT  
ZA OFFICE

580 California Street, Suite 1200  
San Francisco, CA 94104

Telephone: 415.722.1159  
email: edwards@fortress-us.com

CASE NUMBER:  
For Staff Use only

# APPLICATION FOR Certificate of Transfer for Transferable Development Rights (from a Transfer Lot)

## 1. Owner/Applicant Information

TRANSFEROR - PROPERTY OWNER'S NAME OF RECORD: See Attachment B		
ADDRESS: 1080 Pacheco Street, San Francisco, CA Attn.: Maureen Wong Chen	ZIP CODE: 94116	TELEPHONE: (415) 290-0337
TRANSFEEE - NAME OF RECORD: Moris Herscowitz and Janet Herscowitz as Trustees of the Herscowitz Living Trust Dated September 5, 2003		
ADDRESS: 4131 Whiteside Street, Los Angeles	ZIP CODE: 90063	TELEPHONE: (323) 269-0494
APPLICANT'S NAME: Same as Owner <input checked="" type="checkbox"/>		
ADDRESS:	ZIP CODE:	TELEPHONE: ( )
CONTACT FOR PROJECT INFORMATION: Same as Applicant <input type="checkbox"/> Same as Owner <input type="checkbox"/> Werner Associates Architects, Attn. Bill Werner		
ADDRESS: 30 Liberty Ship Way, Suite 3250, Sausalito, CA	ZIP CODE: 94965	TELEPHONE: (415) 332-9300

## 2. Location and Classification

STREET ADDRESS OF LOT: 558 Sacramento Street	ZIP CODE: 94111
CROSS STREETS: Leidesdorff Street	

LEGAL DESCRIPTION OF LOT (ADDITIONAL SHEETS MAY BE ATTACHED IF NECESSARY):  See Exhibit "A"
---

ASSESSORS BLOCK/LOT: 0228 /009	LOT DIMENSIONS: See Exhibit "A"	LOT AREA (SQ FT): 2,390	ZONING DISTRICT: C-3-0	HEIGHT/BULK DISTRICT: 75-X
ARTICLE 10 CLASSIFICATION: None		ARTICLE 11 CLASSIFICATION: IV - CONTRIBUTORY BUILDING, WITHIN CONSERVATION DISTRICT		

### 3. TDR Transactions

Identify the amount of certified TDR available in the Statement of Eligibility for the Transfer Lot. Describe all previous transfers of TDR from the Transfer Lot, including transfers executed under the provisions of Section 127 of the City Planning Code. State the amount to be transferred pursuant to this application, and the amount of TDR (if any) which will remain un-transferred.

AMOUNT	NUMBER I.D. OF TDR (BLOCK/LOT : TDR NUMBER)	RECORDATION INSTRUMENT NUMBER	RECORDATION DATE
<b>TDR Certified in the Statement of Eligibility*</b>			
13,363	0228/009 : 00001 through 0228/009 : 13363	SOE is currently being processed	
<b>Previous Transfer(s)*</b>			
1.	:		
	through		
	:		
2.	:		
	through		
	:		
3.	:		
	through		
	:		
4.	:		
	through		
	:		
<b>TDR Available for Transfer</b>			
13,363	0228/009 : 00001 through 0228/009 : 13363		
<b>Proposed Transfer</b>			
13,363	0228/009 : 00001 through 0228/009 : 13363		
<b>TDR Remaining on Transfer Lot</b>			
None	:		
	through		
	:		

\* A certified copy of the recorded Statement of Eligibility, any amended Statement of Eligibility, and each prior Certificate of Transfer transferring TDR from the Transfer Lot must be attached, showing the recorded instrument number of each document and date of recordation. If the names (s) of the transferor(s) and/or transferee(s) are not correctly and completely shown on said certificates, they must be noted on an attachment to this form.

# Certificate of Transfer Application Submittal Checklist

The intent of this application is to provide the Zoning Administrator with sufficient information to confirm and verify the amount of TDR available for transfer to the transferee. Receipt of the application and the accompanying materials by the Planning Department shall only serve the purpose of establishing a Planning Department file for the proposed project. After the file is established, the Zoning Administrator or his/her designee will review the application to determine whether the application is complete or whether additional information is required for the Certificate of Transfer process. The checklist is to be completed by the applicant or authorized agent and signed by a department staff member.

CHECKLIST	REQUIRED MATERIALS	NOTES
<input type="checkbox"/>	<b>Application, with all blanks completed</b>	
<input checked="" type="checkbox"/>	300-foot radius map	
<input checked="" type="checkbox"/>	Address labels (original)	
<input checked="" type="checkbox"/>	Address labels (copy of the above)	
<input checked="" type="checkbox"/>	Site Plan at 1/8" or 1:10 scale	
<input checked="" type="checkbox"/>	Floor Plans	
<input checked="" type="checkbox"/>	Elevations	
<input checked="" type="checkbox"/>	Prop. M Findings	
<input checked="" type="checkbox"/>	Photographs (within one month of application submittal)	
<input type="checkbox"/>	<b>Check payable to Planning Dept.</b>	
<input type="checkbox"/>	<b>Original Application signed by owner or agent</b>	
<input type="checkbox"/>	<b>Letter of authorization for agent signed by owner, if applicable</b>	
<input type="checkbox"/>	<b>Other:</b> Copies of the recorded Statement of Eligibility and, if applicable, amended Statement of Eligibility reflecting all changes in gross floor area due to alterations, showing the recorded instrument number of each document and date of recordation.	
<input type="checkbox"/>	<b>Other:</b> Copies of prior recorded Certificate(s) of Transfer of TDR, if applicable, from the Transfer Lot, showing the recorded instrument number of each document and date of recordation.	

**NOTES:**

- Required Material. Write "N/A" if you believe the item is not applicable, (e.g. letter of authorization is not required if application is signed by property owner.)
- Typically would not apply. Nevertheless, in a specific case, staff may require the item.
- Two sets of original labels and one copy of addresses of adjacent property owners and owners of property across street.

For Department Use Only

Application received by Planning Department:

By: \_\_\_\_\_

Date: \_\_\_\_\_

CASE NUMBER:  
For State Use Only

# Owner's Affidavit

**NOTICE:** The transfer of Transferable Development Rights (TDR) pursuant to this Certificate of Transfer is subject to whatever rights exist in favor of third parties who assert or hold an interest in the real property described herein. The city, by issuing this statement does not take any position on or give any assurances regarding the existence or non-existence of any such rights, nor of their effect, in any, upon TDR or transactions involving TDR.

Under penalty of perjury the following declarations are made:

- a. The undersigned is the owner of this property.
- b. The undersigned, as Transferor, does hereby grant, assign, and transfer the proposed TDR amount, subject of this Certificate of Transfer to the named Transferee in said application, all those Transferable Development Rights pursuant to the Planning Code.
- c. The information presented is true and correct to the best of my knowledge.
- d. The other information or applications may be required.

Signature of Owner(s): \_\_\_\_\_ Date: \_\_\_\_\_  
(Acknowledgement by Notary Attached)

Print name of owner(s) in full

Signature of Owner(s): Maureen Wong Chen Date: 3/31/16  
(Acknowledgement by Notary Attached)

Print name of owner(s) in full

MWC Sutter Street, LLC,  
a Nevada Limited Liability Company

By: Maureen Wong Chen, Manager  
Name: Maureen Wong Chen,  
Title: Manager

Maureen Wong Chen, Trustee  
Maureen Wong Chen, Trustee  
of the Erwin Roy Chen Nonexempt  
Marital Trust dated January 1, 2011

Maureen Wong Chen, Trustee  
Maureen Wong Chen, Trustee  
of the Maureen Wong Chen  
Survivor's Trust dated January 1, 2011

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

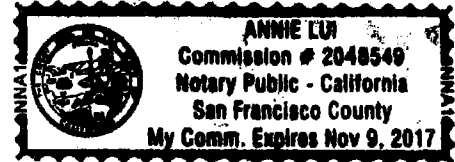
County of San Francisco)

On 05/31/14 before me, Annie Lui, Notary Public  
(insert name and title of the officer)

personally appeared Maureen Wong Chen  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Annie Lui, Notary Public (Seal)



March 16, 2016

Planning Department  
CITY and COUNTY of SAN FRANCISCO  
1650 Mission Street, Suite 400  
San Francisco, CA 94103-2414

Subject:  
Transferable Development Right Processing for:  
588 Sacramento Street – Assessor's Parcel Number 0228/009

Affidavit of Owner

We hereby declare under penalty of perjury under the laws of the State of California, that Bill Werner or Edward Auyeung of WERNER ASSOCIATES ARCHITECTS, represents the owners of record for the processing of the Statement of Eligibility for Transferable Development Rights.

We certify that Bill Werner or Edward Auyeung of WERNER ASSOCIATES ARCHITECTS is authorized to act as our agent for the submission, processing and recording of all documents, and other matters related to such Transferable Development Rights.

MWC Sutter Street, LLC,  
a Nevada limited liability company

By: Maureen Wong Chen Manager  
Name: Maureen Wong Chen,  
Title: Manager

Maureen Wong Chen Trustee  
Maureen Wong Chen, Trustee  
of the Erwin Roy Chen Nonexempt  
Marital Trust dated January 1, 2011

Maureen Wong Chen Trustee  
Maureen Wong Chen, Trustee  
of the Maureen Wong Chen Survivor's  
Trust dated January 1, 2011

(Acknowledgement attached)



RECORDING REQUESTED BY: )  
 )  
 Scott Sanchez )  
 Zoning Administrator )  
 Planning Department )  
 City and County of San Francisco )  
 1650 Mission Street, Suite 400 )  
 San Francisco, CA 94103 )  
 )  
 WHEN RECORDED RETURN TO: )  
 )  
 Werner Associates Architects )  
 30 Liberty Ship Way, Suite 3250 )  
 Sausalito, CA 94965 )  
 Attn: Bill Werner )

**STATEMENT OF ELIGIBILITY OF TDR – PLANNING CODE SECTION 128**

NOTICE – The transfer of TDR certified as available for transfer in this Statement of Eligibility is subject to whatever rights exist in favor of third parties who assert or hold an interest in the real property described herein. The City, by issuing this Statement of Eligibility, does not take any position on or give any assurances regarding the existence or nonexistence of any such rights, nor of their effect, if any, upon TDR or transactions involving TDR.

SECTION 128(k) OF THE PLANNING CODE states that TDR shall convey the rights granted herein only for so long and to the extent authorized by the provisions of this Code. Upon repeal of such legislative authorization, TDR shall thereafter convey no rights or privileges. Upon such amendment of such legislative authorization, TDR shall thereafter convey only such rights and privileges as are permitted under the amendment. Section 128 of the Planning Code requires submittal of a report providing proof that any/all outstanding City violations are cured; a preservation, maintenance, and rehabilitation plan; an ongoing maintenance plan; and, copies of all permits and costs incurred for work that is going to be undertaken to implement the preservation, maintenance, and rehabilitation plan.

SECTION 128(l) OF THE PLANNING CODE requires the submittal of a Preservation, Rehabilitation, and Maintenance Plan at the time of application for an initial Certificate of Transfer of TDR from the Transfer Lot. The Plan shall describe any proposed preservation and rehabilitation work that guarantees the maintenance and upkeep of the Preservation Lot. Pursuant to Section 128(a)(4) of the Planning Code, the TDR proceeds are to be used to finance, in whole or in part, the rehabilitation and restoration of the building in accordance with the Secretary of Interior Standards.

Within one year of the issuance of the Statement of Eligibility, the owner of the Preservation Lot shall submit a status report showing that all work has been (or is being) completed and the ongoing maintenance of the property to the Zoning Administrator. Failure to comply with any of the above provisions is grounds for rescission of this Statement of Eligibility.

**Case No.:** 2016-000377TDE  
**Date Filed:** January 8, 2016

**TRANSFER LOT**

Address: **558 Sacramento Street**

Block/Lot: **0228/009**

Legal Description of Lot (attach additional sheets if necessary): **See Exhibit "A"**

Owners:

**MWC Sutter Street, LLC, a Nevada Limited Liability Company, as to an undivided 34.00% interest; Maureen Wong Chen, Trustee of the Erwin Roy Chen Nonexempt Marital Trust dated January 1, 2011, as to an undivided 25.40% interest, and Maureen Wong Chen, Trustee of the Maureen Wong Chen Survivor's Trust dated January 1, 2011, as to an undivided 40.60% interest.**

**691 Tenth Ave.  
San Francisco, CA 94118**

Contact Person:

**Werner Associates Architects  
30 Liberty Ship Way, Suite 3250  
Sausalito, CA 94965  
Attn: Bill Werner**

Zoning: **C-3-O – Downtown-Office**

Category of Building (I, II, III, IV, or V): **IV – Contributory Building, within Conservation District**

Designation of Building (Significant, Contributory, or Category V): **Contributory**

Conservation District: **Commercial-Leidesdorff**

Landmark No.: **None**

Amount of TDR Available for Transfer: **13,363 units**

The TDR certified in this form are to be designated as described below, in accordance with Section 128(g)(2) of the Planning Code:

**13,363**  
Amount

**0228/009:000001**  
Block/Lot: TDR Number

through

**0228/009:013363**  
Block/Lot: TDR Number

---

Scott F. Sanchez  
Zoning Administrator  
City and County of San Francisco  
(Acknowledgement Attached)

---

Date

Any appeal of the proposed Statement of Eligibility shall be filed with the Board of Appeals within twenty (20) days of the date of issuance of this Statement. If not appealed, the proposed Statement of Eligibility shall become final on the 21<sup>st</sup> day after the date of issuance.

---

Acknowledgement by Sanchez

**EXHIBIT A**  
**LEGAL DESCRIPTION OF TRANSFER LOT**

1. The building was seismically upgraded in 2008 to conform to the then standards.  
Cost. \$400,000
2. A new roof was installed in 2015  
Cost. \$38,000
3. New HVAC was installed in 2015  
Cost. \$52,000
4. The exterior of the building was completely rehabbed in 2011. The brick facade was washed, treated, joints repacked and sealed.  
Cost. \$18,000
5. All windows, sills and exterior doors were repainted and are on a three year maintenance program.  
Cost. \$8,500
6. The electrical capacity of the building was increased to 600 amps in 2015  
Cost. \$67,000
7. The fire sprinkler system was upgraded with new service from the street as well as new risers throughout the facility. The space conforms to all existing codes  
Cost. \$71,000
8. The elevator was completed renovated in 2014 and modernized.  
Cost. \$388,000

The current lease, which runs for another 15 years, requires the tenant to maintain the building in its current condition. Proof of the tenants desire to maintain the building can be seen in the existing condition.

Please let me know what other information you need and I'll try and provide it. It's probably more efficient if you draft a letter on how you want it and I'll sign it.