

Memo

Date: September 12, 2024

To: Seattle Landmarks Preservation Board

From: Nathan Torgelson, Director of Seattle Department of Construction and Inspections

Subject: Informational Briefing

This memo serves to inform the Seattle Landmarks Preservation Board of the Seattle Department of Construction and Inspections (SDCI) decision to grant an exemption from the requirements of Seattle Municipal Code (SMC) 23.40.008, which allows for the immediate issuance of a demolition permit for the property located at 2234 2nd Avenue, commonly known as Mama's Mexican Kitchen. Additionally, this property meets the criteria for emergency SEPA exemption pursuant to SMC 25.05.880. This decision has been made without extensive consideration of alternatives due to urgent health and safety concerns, as detailed below and in the supporting materials attached. No Board action is required on this matter.

Property Information:

- Property Address: 2234 2nd Avenue
- Property Name: Mama's Mexican Kitchen
- Landmark Status: The property is designated as a landmark under the Seattle Landmarks Preservation Ordinance.

Background:

The Seattle Department of Construction and Inspections (SDCI) has granted an exemption to allow demolition to proceed based on findings that removal of the structure is necessary to address an imminent threat to public health and safety pursuant to SMC 23.40.008. Key points related to this action are outlined below.

1. Health and Safety Concerns:

- The building has been assessed by public safety officials and found to present significant health and safety risks. These issues include structural instability, hazardous materials, and other critical conditions that endanger the public and building occupants.
- Immediate action is required because the City is faced with a threat to the public health and safety that is so imminent as to preclude all deliberation.

2. Rarity of the Request:

- Requests for emergency demolition under SMC 23.40.008 are exceptional and reserved for cases where safety and health are at immediate risk.
- The decision to approve such an exemption reflects the extraordinary nature of the situation at this property

3. Compliance with Regulations:

• The exemption has been granted in accordance with SMC 23.40.008.B and SMC 25.05.880.

September 12, 2024

Ian Morrison McCullough Hill PLLC

VIA EMAIL

Email: <u>imorrison@mhseattle.com</u>

Re: 2234 2nd Avenue Request for Demolition Response SDCI Permit No. 7042423-DM

We received your request for an exemption from the requirements of Seattle Municipal Code 23.40.008 to allow immediate issuance of a demolition permit for the property at 2234 2nd Avenue. I have concluded that demolition of the landmarked structure is required for reasons of health and safety pursuant to SMC 23.40.008.B and SMC Chapter 22.208.

Due to the hazardous conditions caused by repeated break-ins and occupation of and below the structure by trespassers, requiring multiple fire and emergency responses from the Seattle Fire Department, demolition is required to avert the risk of possible human injury to those trespassers and the public safety officials who must enter the structure to preserve lives. In light of those concerns, shared by both SDCI and SFD, a full exemption from compliance with the Certificate of Approval process from Department of Neighborhoods is granted to protect against an imminent threat to public health and safety. Compliance with the procedures and requirements of Chapters 23.40 and 23.76 of the Seattle Municipal Code would increase and or prolong an imminent threat to public health or safety. Additionally, demolition must be undertaken within a time too short to allow full compliance with the State Environmental Policy Act, Chapter 25.05 of the Seattle Municipal Code. The demolition is therefore exempt from the requirement in order to avoid an imminent threat to public health or safety under 25.05.880.

This approval to demolish does not exempt the owner from obtaining a Certificate of Approval from the Landmarks Preservation Board for any future development that may occur at the site. In addition, all other approvals required for the demolition, including but not limited to those from SDCI and SDOT must be obtained before taking any prior action to demolish the structure.

After issuance of the demolition permit, please continue to work with relevant public safety agencies including the Seattle Fire Department to ensure protection of the public as you mobilize to complete the demolition process. You may upload this approval letter to the demolition permit record.

Sincerely,

In/

Nathan TorgeIson, Director Seattle Department of Construction and Inspections

August 27, 2024

VIA EMAIL

Mr. Nathan Torgelson Director, Seattle Department of Construction and Inspections 700 5th Avenue, Suite 2000 Seattle, WA 98104 Email: <u>Nathan.Torgelson@seattle.gov</u>

Re: 2234 2nd Avenue Request for Demolition SDCI Permit No. 7042423-DM

Dear Director Torgelson,

I am writing on behalf of Minglian Realty, LLC ("Owner"), which owns the property at 2234 2nd Avenue in Seattle, Washington ("Property"). The Owner purchased the Property in 2015. They started the Seattle Department of Construction and Inspections ("SDCI") process in January 2016 with the goal of demolishing the existing structure and building approximately 100 new residential units and active street-level retail on 2nd Avenue ("Project" and SDCI Project No. 3020027-LU).

However, the City's Landmarks Preservation Board landmarked the Property in 2017. The added complexity and time required to participate in the Landmark Preservation Board review process (which we met with five times between 2017 and 2020), along with COVID-related delays and rising interest rates, have resulted in the Project becoming financially infeasible for the foreseeable future.

We understand that the City considers the existing structure to be a threat to public health and safety. The Owner has used all reasonable efforts to harden the structure to deter trespassing and maintain it as a vacant building consistent with the Seattle Municipal Code ("SMC"). The Owner is aware that trespassers have tunneled into the Property from the adjacent southern parcel. The public safety threat from trespassers and illegal activity occurring around the Property is a significant concern. The Owner believes the best solution for Belltown (and the City) is to demolish the existing structure as soon as possible. Thus, the Owner is submitting a demolition permit (SDCI Permit No. 7042423-DM ("Permit")) and ask SDCI to approve the Permit per SMC 23.40.008.B authority for emergency demolition.

The Fire Department has found the Property – in its vacant condition – to be a public nuisance and a danger to health and safety. *Attachment A*. The Owner has worked diligently with SDCI, Police, and Fire to repeatedly secure the building. In consultation with the City, the Owner has spent more than \$75,000 on locks, fencing, and other hardening measures to deter trespass and other damages. The Owner appreciates the City's spirit of partnership in addressing the public safety threats occurring around the Property.

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Left: 2nd Avenue façade (western) Right: Alley façade (eastern) both as of August 8, 2024

Despite all reasonable efforts, trespassers continue to illegally enter the Property. Given the adjacent site was demolished, trespassers were breaking in through a former party wall. In July 2024, per a City request, the Owner installed fencing, plywood, and hardening measures to deter the break-ins.



South façade showing security fencing and plywood; fence is attached to the building.

Within 24 hours of the new fencing installation, however, trespassers had tunneled from the adjacent vacant property (which is not owned by Owner) to access the Property from below grade. We are aware that trespassing continues through this tunnel, which remains a public safety threat.

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Close up of the southern "tunnel" (note the cardboard used to ease trespassing).

The Owner is prepared to promptly demolish the existing structure on the Property to address public safety concerns as soon as authorized by a City permit. As you are aware, due to the Property's landmark status, the Owner is unable to do so without SDCI approval of the Permit. We respectfully ask that SDCI approve demolition per SMC 23.40.008.B in the face of the pressing threat to public health and safety. There are no commercially viable alternatives to demolition because the current financial markets and construction costs do not support redevelopment of the Property, even if the City issued all permits for the new apartment development. Additionally, the City is still reviewing the Master Use Permit and Certificate of Approval for the Project, and the Project's building permit applications have not yet been submitted; so even if financial conditions did somehow greatly improve, it would be at least 15-18 months before construction could begin.

Given the continued trespassing from the adjacent southern property, which was another landmarked property that was destroyed by a fire while vacant, time is of the essence for the Owner.

Upon issuance of the Permit by SDCI, the Owner's contractor is ready to mobilize and complete demolition promptly. For these reasons, the Owner respectfully requests that the City expedite its review and approval of the Permit due to the health and safety concerns as noted by City reports. Again, the Owner appreciates the City's collaboration in proactively addressing the public safety issues in Belltown. We applaud the City, particularly SDCI, Police, and Fire, in working towards public safety solutions.

As always, thank you for your consideration. Please contact me with any questions.

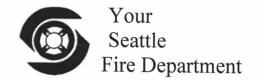
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Sincerely,

s/Ian Morrison

cc: Deputy Mayor Tim Burgess Steven Hinch, SDCI Lt. Dan Jones, SFD Captain Steven Strand, SPD Owner Jeff Walls, Project Architect

ATTACHMENT A



07/19/2024

DECLARATION OF PUBLIC NUISANCE

Subject Property:

2234 2nd Ave

Property Owner/Manager: MINGLIAN REALTY LLC C/O CHENG CHEN 1520 140TH AVE NE STE 102 BELLEVUE, WA 98005

Tenant/Occupant: ALL OWNERS, MANAGERS, INTERESTED PARTIES, AND OCCUPANTS OF THE BUILDING AND PREMISES 2234 2nd Ave Seattle, WA 98121

Fire Department records list you as the person responsible for the building or occupancy listed above. This declaration is being made concerning the property identified above. The Fire Code Official (Fire Chief or other designated authority) has the authority to enforce the 2018 Seattle Fire Code ("2018 SFC") pursuant to section 104.1. Pursuant to that authority and 2018 SFC 111.1.3, I declare the building or occupancy to be unsafe, a public nuisance, and that it endangers the health or safety of the public, neighboring buildings, and fire department personnel (2018 SFC 111.1). I further direct that the hazardous conditions be abated by restoration or demolition as authorized in 2018 SFC 111.4. This declaration is made based on my training and experience, my observations of the property, consultation with others and the records as described below.

UNSAFE BUILDING AND OWNER RESPONSIBILITIES IN THE SEATTLE FIRE CODE

2018 SEATTLE FIRE CODE ("18 SFC") SECTION 111.1.1: Unsafe Conditions. Structures, premises, or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress, that constitute a fire hazard, that involve illegal or improper occupancy or inadequate maintenance, or that are otherwise dangerous to human life or public welfare, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the *fire chief* or *fire code official* deems necessary and as provided for in this section. A vacant structure that is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

18 SFC SECTION 111.1: General. If a premises, a building or structure, or any building system, vehicle or vessel, in whole or in part, endangers any property or the health or safety of the occupants of the property or of neighboring premises, buildings, motor vehicles, vessels, or the health and safety of the public or fire department personnel, the fire code

official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section. The fire code official may refer the building to the Seattle Department of Construction and Inspections for any repairs, alterations, remodeling, removing or demolition required.

18 SFC Section 111.1.3 Public nuisance. A building or portion thereof, or premises, that is deemed unsafe under this section is found and declared to be a *public nuisance*. The *fire code official* is authorized to abate the *public nuisance*. The cost of such abatement shall be recovered from the *owner* or *person* responsible or both in any manner provided by law.

18 SFC Section 111.4 Abatement. The *owner*, the owner's authorized agent, operator or occupant of a building or premises deemed unsafe by the *fire code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action. Where the *owner*, or the *owner's* authorized agent, operator or occupant, fails to abate or cause to be abated or corrected such unsafe conditions, the *fire code official* is authorized to abate such unsafe conditions that are in violation of this code. The cost of such abatement shall be recovered from the *owner* or *person* responsible or both in any manner provided by law, including through a special assessment under RCW 35.21.955 against the property filed as a lien with the King County Recorder.

CURRENT FINDINGS AND OBSERVATIONS:

- 1. <u>Structural Deficiencies:</u> The property exhibits significant structural deficiencies, including but not limited to the south exterior wall is a party wall, meant for interior use. The south wall bricks have been broken through to create holes for entry in numerous places. There is a partial collapse on the top of the south wall. Unknown interior structure stability due to transient occupation.
- 2. <u>Health Hazards</u>: The property poses the following hazards as a result of transient occupation. There is a build-up of trash, syringe tops from drug use, human waste, and evidence of vermin occupation.

PREVIOUS VIOLATION(S)

You have received previous notice of the following violations....

1. VIOLATION OF 18 SFC 111.1: THIS BUILDING ENDANGERS HEALTH OR SAFETY OF

OCCUPANTS, NEIGHBORING PROPERTIES, PUBLIC OR FIRE DEPARTMENT PERSONNEL AND NOTICE IS BEING ISSUED TO REMEDY CONDITIONS. SEE OTHER COMMENTS REGARDING ACTIONS REQUIRED TO REMEDY THE UNSAFE SITUATION. = INSPECTION REPORT <u># 2024-0018789 -</u> ENCLOSED)

- 2. VIOLATION OF 18 SFC 111.1.1: THIS VACANT AND UNSECURED BUILDING IS DEEMED UNSAFE BY THE FIRE CODE OFFICIAL. SEE OTHER ITEMS REGARDING ACTIONS TO TAKE TO REMEDY THE UNSAFE CONDITIONS. = INSPECTION REPORT #2024-0018789 - ENCLOSED)
- 3. <u>VIOLATION OF 18 SFC 111.3:</u> CONDITIONS EXIST THAT ARE DEEMED HAZARDOUS TO LIFE AND PROPERTY. THE FIRE DEPARTMENT OFFICIAL IS AUTHORIZED UNDER THE CODE TO SUMMARILY ABATE SUCH HAZARDOUS CONDITIONS. = INSPECTION REPORT #2024-0018789 - ENCLOSED)
- 4. VIOLATION OF 18 SFC 311.1.1: THIS BUILDING HAS BEEN REPEATEDLY OR PERSISTENTLY UNPROTECTED OR UNSECURED, AND HAS BEEN OCCUPIED BY UNAUTHORIZED PERSONS OR THAT PRESENT A DANGER, AND SHALL BE CONSIDERED ABANDONED. IF THESE UNSAFE CONDITIONS ARE NOT REMEDIED, THE CITY MAY PURSUE ABATEMENT BY DEMOLITION OR REHABILITATIONS AT THE OWNER'S EXPENSE. = INSPECTION REPORT # 2024-0018789 - ENCLOSED)
- 5. VIOLATION OF 18 SFC 311.2.1: THIS PREMISES MUST BE SECURED AGAINST UNAUTHORIZED ENTRY. = INSPECTION REPORT <u># 2024-0018789 - ENCLOSED</u>)
- 6. <u>VIOLATION OF 18 SFC 311.3:</u> Combustible materials must be removed from this premises. Fencing in front of building and alley are open. South side of building has two holes in brick one that's big enough for an unauthorized person to access. = INSPECTION REPORT #2024-0018789 Enclosed)

PREVIOUS CALLS FOR SERVICE

The Seattle Fire Department has received and responded to the following calls for service from your property over the last two years:

| Date and Time | Incident # | Incident Type |
|------------------|------------|----------------------------|
| 04.11.24 / 21:40 | F240049108 | SPD Assist – Secure Window |
| 04.11.24 / 01:25 | F240048712 | MedOD |
| 03.09.24 / 21:45 | F240034179 | Rubbish Fire |
| 03.26.23 / 05:52 | F230036746 | 4 Red Fire |
| 11.10.22 / 17:18 | F220137193 | Water Job |

REPORT OF COMPLAINTS ABOUT THE PROPERTY RECEIVED BY SFD

The Seattle Fire Department has received and investigated the following complaints about your property. The complaints were made by members of the public to our department.

| Date | Complaint # | Complaint # Summary | |
|----------|-------------|--------------------------------------|--|
| 05.03.24 | 24-60 | New access point on side of building | |

| 02.28.24 | 24-28 | Squatters knocked a hole in the side of building, using it as an | |
|-------------------|-------|--|--|
| CONTRACTOR DURING | | access point. | |

COSTS OF ABATEMENT AND PENALTIES:

Pursuant to the authority granted to me in 2018 SFC 104.1, 111.1.1 and 111.3, and based on the findings and record above, the property is declared a public nuisance and I am directing that the hazardous conditions be abated which may include demolition. If you do not take prompt action to abate the conditions creating a public nuisance, the Fire Department is authorized to do so. You are responsible for the costs of abatement including demolition, whether you perform the abatement or the abatement is performed by the City of Seattle or by our contractor.

If you do not correct these unsafe conditions, the City may take legal action against you, including but not limited to:

- Filing a **civil lawsuit** for cumulative penalties of up to \$1,000 per day for each violation, beginning from the date the violation occurred, and continuing until compliance is achieved and an order of abatement is issued. (18 SFC 110.3.6.1)
- Filing **criminal charges** against you. Violations of the Seattle Fire Code constitute a gross misdemeanor with penalties up to \$5,000 and/or imprisonment for up to 364 days. (18 SFC 110.3.6.2; Seattle Municipal Code 12A.02.070)
- Initiation of **proceedings to remove or demolish the building** (18 SFC 111.1) including a finding that could require the owner to abate the unsafe conditions by removing or demolishing the building at the owner's expense. (18 SFC 111.3 or 111.4 and 2018 Seattle Building Code 102)

APPEAL

Pursuant to 18 SFC 109.1, you may appeal decisions or actions pertaining to the application and interpretation of the Code. Section A101.4.2, in Appendix A of the SFC, also provides information on the process for appealing decisions or actions pertaining to the application and interpretation of the Seattle Fire Code.

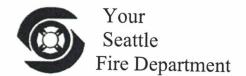
If you have questions or do not understand this letter, contact the compliance officer at 206-386-1345 or at SFD_FMO_Compliance@seattle.gov. To request a review of this Declaration, you may submit a request in writing by sending an email to both

SFD_FMO_Compliance@seattle.gov and SFD_FMO_StaffAssistant@seattle.gov to Assistant Chief Timothy J. Munnis. Please send the email to both addresses to ensure timely receipt.

Very truly yours,

Chief Timothy J. Munnis Fire Marshal, Seattle Fire Department

Enclosures: Order to Comply Notice



03/15/2024

ORDER TO COMPLY

Subject Property:

2234 2nd Ave

Property Owner/Manager: MINGLIAN REALTY LLC C/O CHENG CHEN 1520 140TH AVE NE STE 102 BELLEVUE, WA 98005

Fire Department records list you as the person responsible for the building or occupancy listed above. As a result of inspection(s) conducted by the Seattle Fire Department, and pursuant to 2018 Seattle Fire Code ("2018 SFC") Section 110.3, notice is hereby given that the building or occupancy referenced above has been deemed unsafe and/or endangers the health or safety of the public, neighboring buildings, or fire department personnel.

You are advised to read this order carefully to understand the actions you must take and penalties that apply if you do not remedy the code violations.

UNSAFE BUILDING AND OWNER RESPONSIBILITIES IN THE SEATTLE FIRE COD

2018 SEATTLE FIRE CODE ("18 SFC") SECTION 111.1.1: Unsafe Conditions. Structures, premises, or existing equipment that are or hereafter become unsafe or deficient because of inadequate means of egress, that constitute a fire hazard, that involve illegal or improper occupancy or inadequate maintenance, or that are otherwise dangerous to human life or public welfare, shall be deemed an unsafe condition. A vacant structure that is not secured against unauthorized entry as required by Section 311 shall be deemed unsafe.

18 SFC SECTION 111.1: General. If a premises, a building or structure, or any building system, vehicle or vessel, in whole or in part, endangers any property or the health or safety of the occupants of the property or of neighboring premises, buildings, motor vehicles, vessels, or the health and safety of the public or fire department personnel, the fire code official shall issue such notice or orders to remove or remedy the conditions as shall be deemed necessary in accordance with this section. The fire code official may refer the building to the Seattle Department of Construction and Inspections for any repairs, alterations, remodeling, removing or demolition required.

18 SFC SECTION 111.3: Summary Abatement. Where conditions exist that are deemed hazardous to life and property, the fire code official or fire department official in charge of the incident is authorized to abate summarily such hazardous conditions that are in violation of this code.

VIOLATION(S)

As a result of an inspection on $\frac{02}{28}$ by Lt. Daniel Jones, Seattle Fire Department, notice is hereby given that the following violations of SFC were found at the subject property:

- <u>VIOLATION OF 18 SFC 111.1:</u> This building endangers health or safety of occupants, neighboring properties, public or fire department personnel and notice is being issued to remedy conditions. See other comments regarding actions required to remedy the unsafe situation. = INSPECTION REPORT <u># 2024-0018789</u> enclosed)
- 2. <u>VIOLATION OF 18 SFC 111.1.1:</u> This vacant and unsecured building is deemed unsafe by the fire code official. See other items regarding actions to take to remedy the unsafe conditions. = INSPECTION REPORT <u>#2024-0018789 - enclosed</u>)
- 3. <u>VIOLATION OF 18 SFC 111.3:</u> CONDITIONS EXIST THAT ARE DEEMED HAZARDOUS TO LIFE AND PROPERTY. THE FIRE DEPARTMENT OFFICIAL IS AUTHORIZED UNDER THE CODE TO SUMMARILY ABATE SUCH HAZARDOUS CONDITIONS. = INSPECTION REPORT <u>#2024-</u> 0018789 - ENCLOSED)
- 4. <u>VIOLATION OF 18 SFC 311.1.1:</u> This building has been repeatedly or persistently unprotected or unsecured, and has been occupied by unauthorized persons or that present a danger, and shall be considered abandoned. If these unsafe conditions are not remedied, the City may pursue abatement by demolition or rehabilitations at the owner's expense. = INSPECTION REPORT <u># 2024-0018789 - Enclosed</u>)
- 5. **VIOLATION OF 18 SFC 311.2.1:** This premises must be secured against unauthorized ENTRY. = INSPECTION REPORT <u># 2024-0018789 - ENCLOSED</u>)
- 6. <u>VIOLATION OF 18 SFC 311.3:</u> Combustible materials must be removed from this premises. Fencing in front of building and alley are open. South side of building has two holes in brick one that's big enough for an unauthorized person to access. = INSPECTION REPORT #2024-0018789 enclosed)

COMPLIANCE

In the interest of fire and life safety, you are hereby ordered to correct the item(s) listed in the Violations section above immediately. An SFD inspector will perform an inspection at your premises to determine whether violations have been resolved on or after 03/29/2024.

RE: 2234 2nd Ave

You will be charged an inspection fee of \$373 as required by Seattle Municipal Code 22.602.050 for the upcoming inspection and any subsequent re-inspections that may be necessary to gain compliance with the Fire Code.

PENALTIES

If you do not make the necessary corrections by the compliance deadline listed above, the City may take legal action against you, including but not limited to:

• Filing a **civil lawsuit** for cumulative penalties of up to \$1,000 per day for each violation, beginning from the date the violation occurred, and continuing until compliance is achieved and an order of abatement is issued. (18 SFC 110.3.6.1)

2018 Seattle Fire Code 110.3.6.1 "**Civil penalties**. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be subject to a cumulative civil penalty in an amount not to exceed \$1,000 per day for each violation from the time the violation occurs or begins until compliance is achieved."

- Filing **criminal charges** against you. Violations of the Seattle Fire Code constitute a gross misdemeanor with penalties up to \$5,000 and/or imprisonment for up to 364 days. (18 SFC 110.3.6.2; Seattle Municipal Code 12A.02.070)
- Initiation of **proceedings to remove or demolish the building** (18 SFC 111.1) including a finding that could require the owner to abate the unsafe conditions by removing or demolishing the building at the owner's expense. (18 SFC 111.3 or 111.4 and 2018 Seattle Building Code 102)

If you do not take the necessary corrective actions by the compliance deadline listed above, this case may be referred to the City Attorney's Office for legal action.

APPEAL

18 SFC 110.3.5 provides a process for review of the order to comply for persons aggrieved by the order to comply. You may obtain a review of this order by requesting a review in writing within ten days after service of this order. When the tenth day since service of this order lands on a Saturday, Sunday, or legal holiday, the period shall run until 5 p.m. on the next business day. Within 30 days of the request, the aggrieved person shall submit any additional information to be considered for review.

If you have questions or do not understand the violations and what is necessary to correct them, contact the compliance officer at 206-386-1345 or at SFD_FMO_Compliance@seattle.gov. To request a review of this Order to Comply, you may submit a request in writing by sending an email to SFD_FMO_Compliance@seattle.gov to Assistant Chief Timothy J. Munnis.

RE: 2234 2nd Ave

Very truly yours,

Assistant Chief Timothy J. Munnis Fire Marshal

Cc: ALL OWNERS, MANAGERS, INTERESTED PARTIES, AND OCCUPANTS OF THE BUILDING AND PREMISES 2234 2nd Ave Seattle, WA 98121