

The Owens-Radisch Family
theothersideofthestory@gmail.com

August 24, 2016

Ms. Iris Merriouns, Chief of Staff
Office of Vice Mayor Larry Reid
Second Floor, Council District 7
Oakland City Hall, 1 Frank Ogawa Plaza
Oakland CA 94612
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RE: Final Plea for 100-Year-Old Iris Canada

Dear Iris,

I am deeply disappointed you have terminated months of good faith settlement talks by delivering an ultimatum that demands we sell you our San Francisco apartment. I had honestly believed we shared the goal of restoring your great aunt, Iris Canada, to the place she calls home. This no longer appears to be the case.

Well over a decade ago, after purchasing the Page Street building, and long before you were known to me, we worked with Iris Canada's attorneys to come up with a way for your aunt, then age 86, to live the remainder of her life at Page Street because it was the right thing to do. Since the building could no longer have renters, we voluntarily granted her, free of charge, a record ownership interest (a conditional life estate) for the rest of her life for a fixed payment of \$700 / month—an amount far below our carrying costs. As you know, the life estate is an ownership interest in real property, which gave your aunt the right to live at and use the property during her lifetime, after which the life estate ends and ownership reverts back to our family. That's what the "life" in "life estate" means. The only significant condition was that she actually live there—permanently, as the sole and only occupant. That was to address our main concern that someone unknown to us could take advantage of her and our intent. Never in our wildest dreams did we imagine this concern would materialize. Our intention was always that the life estate benefit Iris Canada and Iris Canada alone. It was not created to benefit you.

As you—not Iris Canada—would be the obvious beneficiary of any forced sale, your ultimatum raises a serious question of intent. Your actions have not only placed a tremendous emotional and financial burden on my family, but also exposed your kind and elderly aunt to needless duress and worry by making her the face of your agenda. We simply cannot understand why you are placing your interests ahead of your aunt's and preventing us from restoring her life estate as swiftly as possible.

Your mistaken belief, and insistence, that your aunt has a fixed-price purchase option is completely without merit or basis. You may continue to insist otherwise, but there exists absolutely no obligation on our part, either by law, honor or promise, to ever sell you or your aunt the property. We granted her a conditional life estate after working with the Tenderloin Housing Clinic to achieve exactly what elders on fixed incomes need—secure and affordable housing. At no time during the lengthy life estate discussions did anyone, you included, ever express any interest in purchasing the property for the obvious reason that your aunt did not want to, nor did she have the financial resources to do so. Forcing a sale now is factually improper, entirely self-serving, and most importantly preventing restoration of the life estate at your aunt's expense.

As we both know, your aunt has not lived at 670 Page Street since 2012. She has been living with you in Oakland. As a result, her life estate has been terminated by law and she no longer has any rights or interest in the property. These factual findings made by the Superior Court are consistent with overwhelming evidence supporting she has not lived there for years. This evidence includes my personal observations, the sworn statements of her former neighbors, her cancelled meal delivery service in 2012, the virtually uninhabitable nature of the property, as well as your own sworn testimony that you have been overseeing her care at your home for almost four years.

Your recent efforts to stage the property, now after the fact, are disingenuous and completely at odds with your actions since December 2014. For the past year and a half, you and your aunt had numerous opportunities to address the merits of her occupancy. Not once during that entire period did you ever present any evidence supporting that your aunt was living at Page Street. Three separate times you failed to allow court ordered inspections of the property as “occupied,” and you frustrated all efforts along the way to confirm where your aunt was living. Instead, you employed bad faith tactics such as bankruptcy filings, improper removals to Federal Court on multiple trial dates, and twice attempting to have criminal charges brought against me. Your actions have been in bad faith and done solely to increase costs, cause delay, intimidate, and most importantly, prevent any findings on the merits. The fact that you have been personally sanctioned over \$4,700 by the Superior Court further evidences the nature of your efforts.

Once your aunt's life estate was terminated in March, the Superior Court was willing to restore the life estate on the condition that she honor the violated life estate terms and reimburse our family for what we suffered as a result of your bad faith efforts. Those costs exceed \$160,000 and continue to grow. We never sought attorney's fees from your aunt; it was the Court who ordered these fees to be paid as a condition of her receiving the relief that *she* asked for.

We have never wanted your aunt's money, we have never wanted to revoke her life estate—we have only ever wanted her cooperation. As you are well aware, in 2014 the building became eligible to convert from tenancies-in-common (TIC) to condominium ownership. It is simply a change in the ownership structure of the 6 units. Iris Canada's cooperation was necessary because the life estate made her a temporary record owner, and not simply a tenant or occupant in the traditional sense. Cooperation would have

absolutely no impact on the life estate or your aunt's ability to live at Page Street for the rest of her life. Cooperation would help her neighbors—good people who she relied on and who looked after her for many years.

You have resisted all our efforts seeking cooperation and have seemingly hid not only our request from your aunt, but also the benign nature of the conversion as well. For example, in April when we were about to restore your aunt's life estate while court was in session, you openly advised your aunt to reject the advice of both her attorneys to restore her life estate by signing the conversion papers. Then, in early June, I watched your aunt read, *for the very first time*, my December 2014 letter pleading with her to contact me regarding her cooperation—a letter you willfully hid from her for 18 months.

Over the past four months, we have bent over backwards to restore your aunt's home, by offering to set aside the judgment, restore the life estate, waive all of the attorney's fees, the arrears, and the sanctions ordered, and make provisions for a full time caregiver—in short virtually everything you asked for. Our only request in return is that she cooperates with the conversion. You have refused.

Now, four months later, with no factual or legal basis, you have presented us with a new financial ultimatum: *either we agree sell your 100 year-old aunt the property at a windfall price or she will refuse to cooperate with the conversion*. Why Iris Canada, a 100-year-old woman, who just declared bankruptcy, who is on social security with virtually no assets, who can be fully restored of her life estate with a full time caregiver for \$700/month, would possibly want to purchase a San Francisco two-bedroom condominium, even if she could force a purchase, is beyond rationale. It is now clear you have been using your aunt's cooperation as leverage to advance your own interest in forcing a sale at a bargain price.

We are not agreeing to sell the property to anyone, your aunt included. It has always been our intent to hold 670 Page Street for our family's long-term use; hence the life estate. My family has deep roots in San Francisco. Carolyn's mother grew up here and attended Lowell High, and her immigrant father worked in the Hunter's Point Naval Shipyard during World War II. Both of our children were born in San Francisco. Even so, we have already agreed that if the property is ever sold during your aunt's lifetime, we are more than willing to offer her an opportunity to purchase it first. What we cannot agree to, however, is a forced sale at any price.

We are pleading with you to please put your aunt's interests ahead of your own. You are not entitled to any benefit from our relationship with your aunt simply because you are related to her. Your insistence that we sell the property is not only self-serving, it is at the expense of your aunt. Please put your personal interests aside and permit us to restore the life estate. We intend to hold off on recovery until the end of the month to give you one final opportunity. If you are unwilling to permit us to restore the life estate without forcing a sale, you leave us no choice but to recover possession.

If that is truly your decision, please convey to your aunt our deepest regrets and why your actions have led to this senseless outcome.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'Peter Owens', with a stylized, cursive script.

Peter Owens (for Carolyn Radisch and Stephen Owens)

Cc

San Francisco Board of Supervisors
Office of Mayor Ed Lee
San Francisco District Attorney
San Francisco Sheriff's Office
Oakland City Council
Office of Mayor Libby Schaaf

Iris Canada
Dr. Harvey S. Merriouns
Bishop Alfred Johnson, Jones Memorial
United Baptist Church
Dr. Amos C. Brown, Pastor Third
Baptist Church
San Francisco Tenants Union
Housing Rights Committee of SF
Senior & Disability Action
Poor Magazine

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East Bay News
(former Oakland Tribune)
East Bay Express
EBCitizen.com
NY Times
Wall Street Journal
Bay City News
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