

CLAIM AGAINST THE CITY OF OAKLAND

Please return the completed form to the Office of the City Attorney, One Frank H. Ogawa Plaza, 6th Floor, Oakland, CA 94612. Additional sheets may be attached as necessary. Enclose a postage paid envelope if you require a filing receipt.

RECEIVED
OAKLAND CITY ATTORNEY
2016 DEC 23 PM 12:31
PERSONAL ☐ HAIL ☐

1) CLAIMANT'S NAME: David Gregory, et al. - See Attachment.
2) ADDRESS: See Attachment. City: _____ State: _____ Zip: _____
HOME #: _____ DRIVER'S LICENSE: Not Applicable
WORK #: (415) 433-4440 SOCIAL SECURITY #: Not Applicable
CELL #: _____ COVERED BY MEDICARE? No IF YES, MEDICARE #: _____
DATE OF BIRTH: Not Applicable OCCUPATION: Not Applicable
AUTO INSURANCE NAME AND POLICY # Not Applicable
(if applicable)

3) IF AMOUNT CLAIMED IS LESS THAN \$10,000, AMOUNT OF CLAIM: \$ Not Applicable - Claim Exceeds \$10,000
(Attach copies of expenses substantiating the basis of computation for the amount being claimed)

IF AMOUNT CLAIMED EXCEEDS \$10,000, WOULD THE CLAIM BE A LIMITED CIVIL CASE (Less than \$25,000)?
Yes X No _____ Unsure _____

4) ADDRESS TO WHICH NOTICES ARE TO BE SENT, IF DIFFERENT FROM LINES 1 & 2:

NAME: _____

ADDRESS: _____ City: _____ State: _____ Zip: _____

PHONE# _____

5) DATE OF INCIDENT: December 2, 2016 TIME OF INCIDENT: Approximately 11:15 p.m.

SPECIFIC LOCATION OF INCIDENT* (Address): 1315 31st Ave., Oakland, CA 94601, & adjacent/surrounding premises.

6) DESCRIBE THE INCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES: See Attachment.

7) DESCRIBE ALL DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT: See Attachment.

8) NAME(S) OF PUBLIC EMPLOYEE(S) CAUSING THE DAMAGES YOU ARE CLAIMING: See Attachment.

9) WERE PARAMEDICS CALLED? Yes.

10) IF YOU WENT TO A DOCTOR, LIST HIS NAME, ADDRESS & TELEPHONE NUMBER:

Date of 1st Visit: _____ Is there a police report on file? Pending investigation.

X Mary E. Alexander
Signature of Claimant or Representative

X December 23, 2016
Date

****Complete the diagram on the back of this form showing the location of the incident****

Any person who, with the intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.
Claims must be filed within 6 months of the incident. See Government Code §§ 900 et seq.* (Revised 10/26/10)

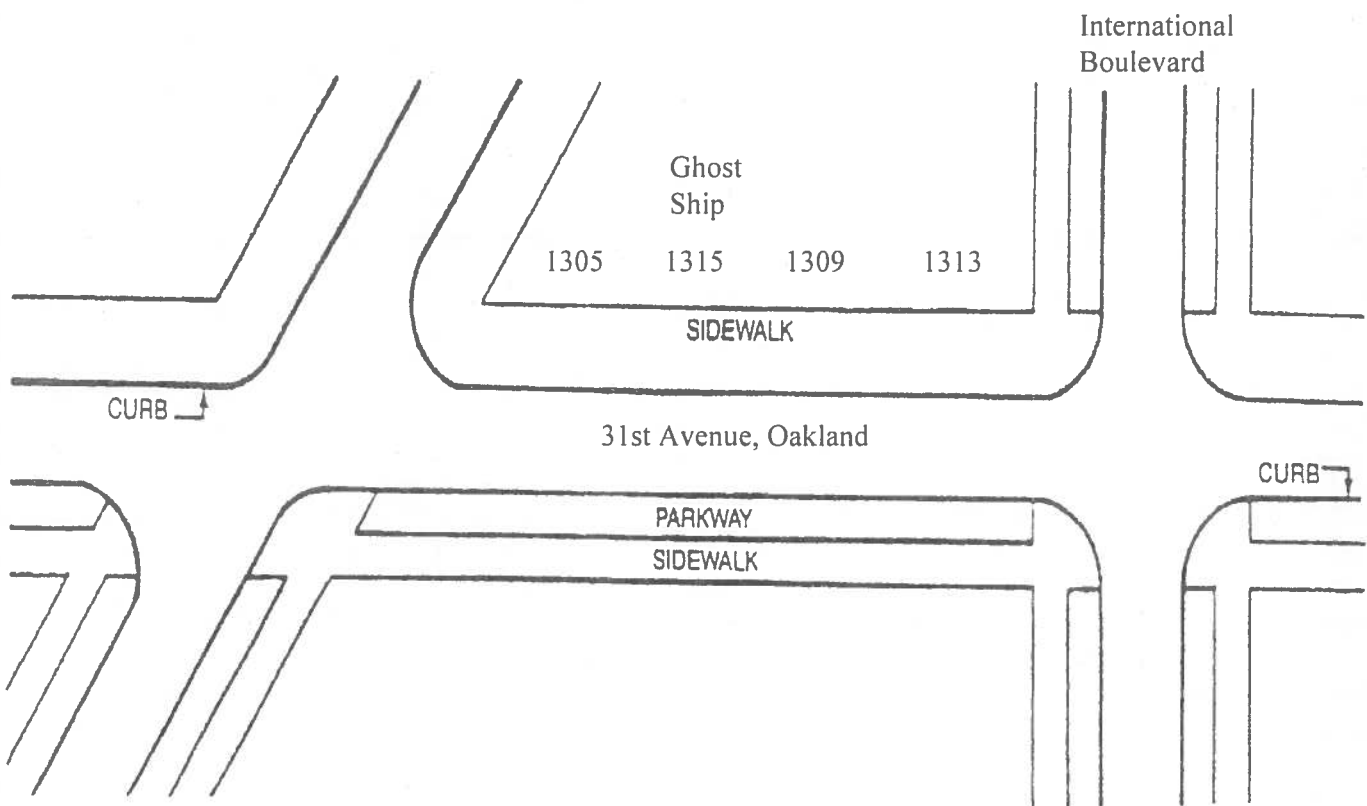
PLEASE READ CAREFULLY

If claim is for injury and you are still under doctor's care, indicate that on the form and submit medical bills to date with status of your condition. If property damage is involved, submit two estimates of repairs or paid invoices to substantiate amount claimed. If the accident involved a vehicle, give the following information:

LICENSE NO.: Not Applicable YEAR/MAKE OF THE VEHICLE: Not Applicable

For all auto accident claims, place on the following diagram the names of streets, including North, East, South and West; indicate the place of the accident by an "X" and by showing house numbers or distances to street corners. If a City vehicle was involved, designate by letter "A" the location of the city vehicle when you first saw it, and by "B" the location of yourself or your vehicle at the time;

If your claim involves some other type of incident, use the diagram below to indicate the location where the incident occurred, showing addresses, landmarks or a photograph if necessary depicting the exact site. Failure to complete the diagram or provide a photo of the site may result in delays in the acceptance of your claim as sufficient according to CA Government Code §§ 900 et seq.



ATTACHMENT TO CLAIM AGAINST CITY OF OAKLAND BY CLAIMANTS

1. CLAIMANTS' NAMES:

DAVID GREGORY, Individually, as Personal Representative of the ESTATE OF MICHELA GREGORY and as Successor in Interest of MICHELA GREGORY;
KIMBERLY GREGORY, Individually and as Successor in Interest of MICHELA GREGORY

2. ADDRESS:

c/o Mary E. Alexander, Esq.
Jennifer L. Fiore, Esq.
Sophia M. Aslami, Esq.
Mary Alexander & Associates, P.C.
44 Montgomery Street, Suite 1303
San Francisco, CA 94104

6. DESCRIBE THE INCIDENT INCLUDING YOUR REASON FOR BELIEVING THE CITY IS LIABLE FOR YOUR DAMAGES:

On the evening of December 2, 2016, MICHELA GREGORY attended an electronic dance music event at 1315 31st Avenue in Oakland, California, a warehouse named "Ghost Ship." A fire broke out inside the warehouse. There were at least 100 people inside. Patrons and invitees, including MICHELA, tried to exit the warehouse, but were unable to exit due to the unsafe conditions and configuration of the warehouse. MICHELA was trapped in the inferno inside. MICHELA suffered injuries from the fire, including from smoke inhalation, while trying to escape.

MICHELA was alive and feared for her safety. She was eventually overcome by the fire and smoke, and subsequently died inside the warehouse. MICHELA did not die instantaneously when the fire broke out. MICHELA was injured and suffered from the injuries caused by the fire and smoke for many minutes before dying.

Plaintiff DAVID GREGORY is the surviving father of Decedent. Plaintiff KIMBERLY GREGORY is the surviving mother of Decedent.

The City of Oakland ("City") is liable for Decedent's injury, then death, and Claimants' injuries and damages pursuant to, but not limited to, the following statutes: Government Code Sections 815.2, 815.4 & 820.2. The City also violated mandatory duties under Government Code 815.6, including, but not limited to those set for Oakland City Ordinance, including, but not limited to, Sections 5.02, 5.22, 8.03, 8.04, 8.10, 8.11, 8.12, 8.18, 8.23, 8.28, 9.08, 9.12, 9.52, 9.56, 10.08, 12.08, 12.44, 12.56, 15.04, 15.08, 15.12, 15.18, 15.28, 15.32 and the Planning Code, California statutes and regulations, including, but not limited to, Building Codes, Health and Safety Codes, the 2013 Fire Code and Cal. Pen. Code § 11166.

The City, through its departments/agencies, employees, agents and/or representatives, including, but not limited to, the Oakland Fire Department, the Oakland Planning & Building Department

and the Oakland Police Department, had a duty to investigate and to protect the public against and warn of the dangers and harms caused by the dangerous and unsafe conditions at the Ghost Ship, and the surrounding and adjacent premises, which include 1315, 1305, 1309 and 1313 31st Avenue in Oakland. The City had a duty to avoid the creation of conditions that are dangerous to its citizens and the public.

1305 31st Avenue is a lot to the southwest of and next to the Ghost Ship. 1309 and 1313 31st Avenue contain the structure immediately to the northeast of the Ghost Ship. 1305 through 1315 31st Avenue are owned by Chor Nar Siu Ng, individually and as trustee of the Chor Nar Siu Ng Revocable Trust Dated September 28, 2007.

The interior of the approximately 10,000 square-foot Ghost Ship was a death trap, which contained a maze of makeshift rooms, alcoves and partitions. It was cluttered with carvings, mannequins, paintings, artwork, scraps of wood, pianos, furniture, tapestries and at least one recreational vehicle trailer, which were kindling for the fire.

The interior of the Ghost Ship was poorly constructed and lacked a safe means of access and egress between the upper floor where the music event was and the warehouse exit on the ground floor.

The Ghost Ship lacked adequate and sufficient fire safety measures and was not up to fire protection and life safety codes, including, but not limited to, not having adequate and sufficient smoke alarms, fire extinguishers, overhead sprinklers, exit signs, emergency lighting, exit lights and a safe means of ingress and egress.

The Ghost Ship lacked a safe and sufficient electrical system and supply. All power to the Ghost Ship was supplied from a meter shared with the structure at 1309 and 1313 31st Avenue and electricity was supplied through a hole in the wall between the Ghost Ship and the adjacent structure. Extension cords and cables were snaked throughout the Ghost Ship, and electrical boxes were installed by unlicensed contractors.

The electrical system was overloaded with excessive use by the dozens of people who lived and worked at the warehouse, including artists, musicians and tattoo artists that used electrical equipment, as well as the musicians and groups that performed public events held at the Ghost Ship. There were often sparks from the electrical system that smelled and circuit breakers blew out often. Overloaded electrical lines at the rear of the Ghost Ship were a likely cause of sparking the first flames that started the fire.

There had been fires inside the Ghost Ship prior to December 2, 2016. The most recent fire occurred the day before, on December 1, 2016, when a refrigerator caught on fire.

Dangerous and flammable materials, including industrial and art supplies and propane tanks that fueled camping stoves, were located throughout the interior of the Ghost Ship.

Employees, agents and/or representatives of the Oakland Planning & Building Department knew and should have known that the Ghost Ship was dangerous and unsafe, was a public nuisance and was being used for unpermitted music events open to the public and for illegal residential purposes. Employees, agents and/or representatives of the Planning & Building Department

inspected the premises in response to the complaints before the fire. The complaints made to the Planning and Building Department, for hazardous and unsafe conditions, including, but not limited to, the building being used illegally for residential purposes:

- November 14, 2016: "Illegal interior building structure"
- November 13, 2016: "There are a ton of garbage piling up on the property on 1305 31st Avenue. Also, a lot of items are left on the sidewalk near the property. Some trash was hazardous. This property is a storage but the owner turned it to become trash recycle site. the [sic] yard became a trash collection site and the main building was remodel for residential. The change causes our neighborhood looks very bad and creates health issue."
- October 7, 2014: "Constructing house/structure without permits"
- September 30, 2014: "Pallets, construction materials blocking sidewalk"
- June 4, 2014: "trash & debris, construction debris, vector issues"

Notices of the violations were sent to Chor Nar Siu Ng for multiple violations of the Oakland Municipal Code, including Sections 8.24.020D "Property Inadequately Maintained," and 8.24.020C "A Building or Structure Which is in a State of Disrepair."

Employees, agents and/or representatives of the Oakland Fire Department knew and should have known that the Ghost Ship was dangerous and unsafe, and a public nuisance, and that events open to the public were held and entertainment was provided there. Employees, agents and/or representatives of the Oakland Fire Department repeatedly visited the Ghost Ship and the adjoining and surrounding premises before December 2, 2016. The nearest fire station was only a block from the Ghost Ship. Employees, agents and/or representatives of the Oakland Fire Department attended and held a music event at the Ghost Ship before December 2, 2016. Therefore, it was well known to the City the illegal use and dangerous condition of the warehouse.

The Ghost Ship had an open, obvious and known history of having public events and parties inside, outside and on the roof top, and charging an entrance fee to the events. There were numerous complaints of excessive noise and debris made to the City of Oakland Police Department when events were occurring. Employees, agents and/or representatives of the Oakland Fire Department went to the Ghost Ship in response to the complaints and saw the unsafe and dangerous conditions and knew that it was a public nuisance firsthand.

Prior to the music event on December 2, 2016, the City knew and/or had reason to know that the Ghost Ship was in disrepair and had a faulty electrical system and contained life-threatening, dangerous and/or illegal conditions, which could likely result in injury to and death to persons. It was reasonably foreseeable that by failing to perform any or all duties set forth herein, including the failure to warn the public, the fire would occur during a music event on December 2, 2016.

Employees, agents and/or representatives of the City, including those with the Fire Department, Police Department and Planning & Building Department knew that the lessees and property managers, Derick Almendra and Micah Allison were illegally living in the dangerous and unsafe Ghost Ship with their three minor children. Said employees, agents and/or representatives of the City, however, failed to comply with their mandatory child abuse and neglect reporting requirements.

Despite notice of the unsafe and dangerous conditions at the Ghost Ship and the surrounding and adjacent premises, employees, agents and/or representatives of the City, among other things, negligently failed to investigate, negligently failed to respond to complaints, negligently failed to protect the public, negligently failed to abate an impending peril, negligently failed to warn the public of the dangerous and unsafe conditions at the Ghost Ship and the surrounding and adjacent properties and negligently failed to abate a public nuisance, and are liable for failing to stop the ultra hazardous activities occurring.

The City's employees, agents and/or representatives failed to exercise reasonable diligence in discharge of their duties. Said employees, agents and/or representatives were negligent in carrying out investigations, protective and safety responsibilities. They were grossly negligent.

The negligent acts and omissions and wrongful conduct of the City's employees, agents and representatives were committed within the scope of their employment.

The City is liable for any tortious act or omission of an independent contractor of the public entity to the same extent that the public entity would be subject to such liability if it were a private person.

Decedent is within the general class of persons that one reasonably would anticipate might be threatened by the City's conduct and negligence of its employees and independent contractors. The harm suffered by Decedent and Claimants is within the general class of harms that one reasonably would anticipate might result from the City's conduct and the negligence of its employees and independents contractors.

The City breached its duties under California law, and as a proximate and direct legal result of the City's negligence and breach of duties under California law, Decedent was injured, then subsequently died, and Claimants were caused to suffer injuries and damages.

7. DESCRIBE ALL DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT:

The amount of Claimants' damages exceeds ten thousand dollars (\$10,000). This would be an unlimited civil case. This would not be a limited civil case.

As a result of the subject incident and the injuries sustained therein, MICHELA died. Claimants seek all special damages permitted in civil actions under the law. These include, but are not limited to: medical and incidental expenses; lost wages and benefits; the financial support Decedent would have contributed to the family; the loss of gifts or benefits that Claimants would have expected to receive from Decedent; funeral and burial expenses; and the reasonable value of household services that Decedent would have provided. Claimants seek all applicable general damages, including but not limited to, the loss of Decedent's love, companionship, comfort, care, assistance, protection, affection, society and moral support. Claimants seek attorneys' fees, costs and other damages as permitted under applicable laws. Claimants seek prejudgment interest on those damages attributable to an ascertainable economic value, in accordance with Civil Code section 3291.

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8. NAME(S) OF PUBLIC EMPLOYEE(S) CAUSING THE DAMAGES YOU ARE CLAIMING:

Claimants do not know the identity of all City personnel involved, but they include employees, agents and/or representatives of the Fire Department, Police Department and Planning & Building Department. Investigation is continuing.

All of the statements made in the claim are upon information and belief.

CERTIFICATE OF SERVICE

I am over the age of 18 years and not a party to the within entitled action. I am employed at Mary Alexander & Associates, P.C., 44 Montgomery Street, Suite 1303, San Francisco, California 94104.

On December 23, 2016, I served the within **CLAIM AGAINST THE CITY OF OAKLAND BY DAVID GREGORY, INDIVIDUALLY, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF MICHELA GREGORY AND AS SUCCESSOR IN INTEREST OF MICHELA GREGORY; AND KIMBERLY GREGORY, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST OF MICHELA GREGORY** on the following persons:

Office of the City Attorney
One Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612

☐ BY MAIL (CERTIFIED, RETURN RECEIPT): I caused true and correct copies of the above documents to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) with postage thereon fully prepaid, and I further caused said envelope(s) to be placed in the United States mail, in the City and County of San Francisco, California.

☒ BY PERSONAL SERVICE: I caused true and correct copies of the above documents to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) and I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).

☐ BY FEDERAL EXPRESS: I caused true and correct copies of the above documents to be placed and sealed in an envelope (or envelopes) addressed to the addressee(s) and I used such envelope(s) to be delivered to Federal Express overnight courier service to the office(s) of the addressee(s).

☐ BY FACSIMILE: I caused a copy (or copies) of such document(s) to be sent via facsimile transmission to the office(s) of the address(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on December 23, 2016, at San Francisco, California.


CARLA JIMENEZ