

# Lawyer-Landlord Peeved Over Suit, 'Bad for Business' Label

By GREG MITCHELL

Lawyers get blamed for a lot of things. High insurance premiums. O.J. Simpson. Hard-to-open aspirin bottles.

But do they ruin the neighborhood, too?

In a recent ruling, First District Court of Appeal Justice William Stein noted that San Francisco's city planners

quashed a lawyer's bid to hang a shingle in the ground floor of his Hayes Valley building, "apparently claiming that the location of a law office in the building would be detrimental to the economic welfare of the area."

While that logic may have puzzled Stein, it positively stunned building owner Daniel Bacon.

**Court Watch**

"I just couldn't believe it," says the labor and entertainment lawyer. Bacon says he bought the building in 1992 with plans to put his two-man shop at street level and live in the upper floors, which then contained a handful of studio apartments.

Readers thinking about bringing blight upon San Francisco by opening a law office should first read *Huppert & Hurabiell v. Bacon*, A081219.

Stein's panel didn't get into the merits of the planning department's policy. Instead, the unpublished opinion deals with Bacon's refusal to pay the bulk of the fees charged by the attorney — and former colleague — he hired to handle the complications that inevitably arose.

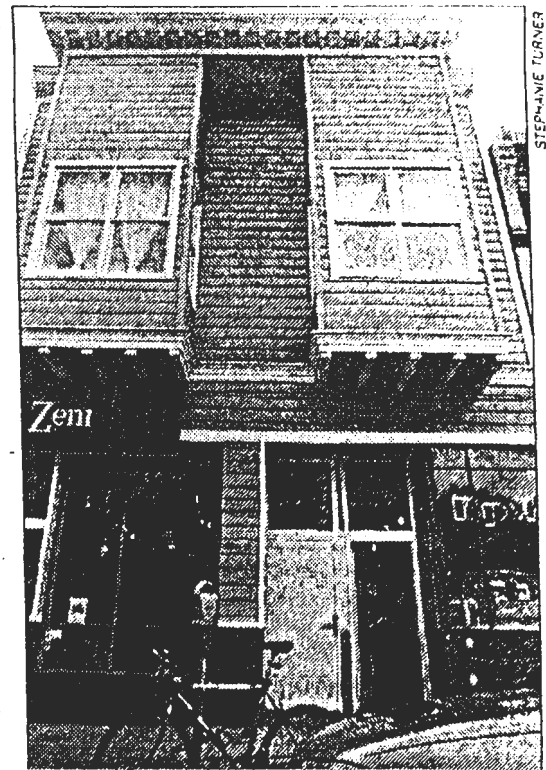
Bacon first ran into trouble with neighboring merchants, who wanted the

space occupied by a retail operation that would bring more foot traffic to their businesses. City planners apparently agreed. "It was quite outrageous," says Bacon. After all, he says, Hayes Street has a lot of restaurants on it and "lawyers go to lunch."

Even Bacon's former lawyer — the one who had to sue for his fees after Bacon decided he'd botched the job — agrees the city planning department goofed when it decided a law firm would be bad for the area.

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**NO SHINGLE HERE:** The owner of this Hayes Street building was blocked from opening his own law office, and has now lost a related fee fight.



## A Law Office in Hayes Valley? Not in My Back Yard!

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Peter Huppert, of Huppert & Hurabiell, said that when Bacon took over, one of the ground-floor tenants was a wedding cake bake shop. Compared to the cake shop, Huppert said, "a law office would produce a lot more person traffic."

But Huppert — like Stein — is less than impressed with Bacon's rationale for stiffing him on his fees.

Bacon says Huppert blew it

**'It's been kind of a nightmare, to say the least. I nearly lost everything.'**

— S.F. lawyer-landlord Daniel Bacon

by not telling him about the Ellis Act. Dubbed the "neutron bomb" by tenant activists, the Ellis Act lets building owners kick all of their tenants out, but

only if all the units are permanently taken off the rental market.

Bacon says the Ellis Act would have worked perfectly

in his case, short-circuiting what turned into multi-front litigation with tenants and the city.

"That's Bacon's fantasy," retorts Huppert. "He'll probably go to his grave thinking, 'If only I'd known about the Ellis Act.'"

In fact, Huppert says, "the Ellis Act was never applicable," nor would it have been a good way to go if it had been. And while the Ellis Act gets a lot of ink in stories fretting

about San Francisco's notoriously tight rental market, Huppert says that when Bacon bought the building, the law was little-known and almost never used.

Today, a clothing store and a music shop occupy what was to be Bacon's office. And he's still renting space.

"It's been kind of a nightmare, to say the least," says Bacon. "I nearly lost everything."