

Two charged with 36 counts of involuntary manslaughter in Oakland Ghost Ship fire

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Derick Ion Almena, 47, and Max Harris, 27, have each been arrested and charged with 36 counts of felony involuntary manslaughter, accused of creating the conditions that led to the Ghost Ship fire in Oakland, California late last year, the deadliest structural fire in the United States in over a decade. If convicted on all counts, the two face up to 39 years in prison.

Both Almena and Harris lived in the Ghost Ship, where Almena was the property manager and Harris served as creative director and planner of events held in the converted warehouse, including the December 2 dance party during which 36 people died of suffocation.

At a press conference announcing the charges Monday, Alameda County District Attorney Nancy E. O'Malley asserted that Almena and Harris "knowingly created a fire trap." As an artists' collective, the Ghost Ship was filled with carvings, mannequins, paintings, scraps of wood, pianos, furniture, and tapestries. There were also multiple propane tanks and gas-powered generators, yet the building lacked adequate fire safety measures, extinguishers or overhead sprinklers.

The probable cause document also claims that on the night of the fire, Harris allegedly blocked off a second stairwell designed to serve as an exit from the second story, where the party was being held, leaving only one narrow, wooden staircase as the exit route for those fleeing the fire.

The ultimate cause of the fire, however, is not likely to be determined, as the blaze engulfed most of the evidence in the building. Earlier this year, Almena's legal team issued a report claiming the fire actually started in an adjacent building.

Jean M. Daly, a former prosecutor in Los Angeles and San Francisco, told the *LA Times* that the unknown origin of the fire could hamper the prosecutors' case,

saying, "That is an awful tough case to make. When you don't know the origin and cause, that makes for reasonable doubt."

Daly noted, "It is a novel theory to say they created a situation so hazardous that it rises to the level of involuntary manslaughter."

Louis Shapiro, a criminal defense attorney, also told the *Times*, "The defense lawyers can use statistics to show there aren't many fires like this. If this has never happened before, how was this foreseeable?"

Whatever responsibility Almena and Harris may share for managing an unsafe living and entertainment environment, the two are being charged to draw attention away from the landlord of the unmaintained warehouse and Oakland city officials who have left a backlog of uninspected buildings while fire inspections are grossly underfunded. Regardless of whether Almena and Harris are found guilty, the housing crisis that drove people to sublet at the Ghost Ship and countless other unpermitted housing locations will continue.

Seeking to bury these issues, Oakland's Democratic Mayor Libby Schaaf issued a statement approving of the charges, declaring, "The reckless and deceptive actions of Derick Almena and Max Harris claimed 36 innocent lives. For years, they worked hard to escape legal scrutiny and deceive City officials. Because of their callous disregard for human life, they deserve to be prosecuted to the full extent of the law."

With such a statement, Schaaf intends to erase her own political responsibility as mayor at the time that the fire took place, and to obscure the more complicated history behind what actually led to the fire.

Earlier this year, pressure by the media forced the City of Oakland to release over 600 pages of documents pertaining to the fire, which made clear that

numerous city officials were fully aware of the unsafe and illegal living conditions inside the warehouse years prior to the outbreak of the fire.

These records revealed that between 2004-2016, over 10 code enforcement complaints and 39 code enforcement inspections were conducted outside the warehouse and neighboring buildings. Despite the ample documentation and inspections of the outside of the building, which made clear that it was being used as informal housing, no effort whatsoever was made by city officials to conduct a thorough inspection of the premises, or to ameliorate the perilous conditions by bringing the building up to code.

The documents also revealed that the Oakland Police Department responded to 19 separate incidents over the past decade, including a February 2015 incident in which the police report described the warehouse as “illegally shared housing.” Former tenant Shelley Mack told the *LA Times* that she witnessed an officer enter the warehouse, saying, “He came inside and saw everything... They almost always came inside.”

Since 1999, the Oakland Fire Department was called to the warehouse and adjacent buildings 16 times. At the time of the fire, the department had only 11 building code inspectors, despite legally being required to inspect all 11,000 commercial buildings annually; shortly after the fire this policy was deleted from the department’s web site.

The lack of affordable housing in Oakland and across the US has forced thousands of people to live in modified warehouses like the Ghost Ship, as well as other types of informal housing with equally unsafe living conditions. According to Zillow.com, the median monthly cost for a new rental in Oakland is \$3,000 a month, equivalent to the entire median monthly household income for households that rent in Oakland.



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