

# Jury finds one defendant not guilty, deadlocked on second in 2016 Oakland Ghost Ship warehouse fire case

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The criminal trial of Derrick Almena and Max Harris, each charged with 36 counts of involuntary manslaughter in the 2016 Oakland, California Ghost Ship warehouse fire, ended Thursday in a deadlock and an acquittal. A more than five-month-long trial that witnessed plenty of drama including dismissed jurors and a restart to the deliberations concluded with the jury being unable to come to a unanimous decision about Almena and finding Harris not guilty on all charges. As of now, a hearing for a possible retrial of Almena is scheduled for October 4.

The two men were on the dock for what the Alameda County District Attorney's office had categorized as their "criminal negligence" leading to one of the deadliest building fires in the country in the past two decades. An old East Oakland warehouse that had been converted into an art collective, Ghost Ship, caught fire late at night on December 2, 2016. The warehouse not only hosted various artist studios, but also provided residential space to numerous tenants as well as serving as an event space.

At the time of the fire, Ghost Ship was the venue of an electronic music party. The space, clearly not designed for any such event, became an infernal deathtrap for the concertgoers and tenants, claiming 36 victims before the fire was finally brought under control.

Responding to public anger in the immediate aftermath of the fire, the Alameda county District Attorney's office announced that it was launching a criminal investigation into the incident. While firefighters and investigators were unable to determine the cause of the conflagration, on June 5, 2017 the DA's office announced the arrest of Almena and Harris

in connection with the case.

Almena, identified as the property manager, was the "Master tenant," the man whose name was on the lease. Harris was his "second-in-command," the person who helped collect rents and organize the various events hosted at Ghost Ship. Both men lived in the warehouse.

At a press conference announcing the charges, Alameda County District Attorney Nancy E. O'Malley asserted that Almena and Harris "knowingly created a fire trap." As an artist collective, the building was filled with highly flammable materials, including propane tanks and gas powered generators, while completely lacking adequate fire safety measures. Harris was further accused of blocking off a second stairwell that could have served as an escape route during the concert.

In 2018, the two men pleaded no contest to the charges as part of a plea deal. Almena agreed to nine years in jail, with four years of supervised release, while Harris agreed to a six-year sentence with four years of supervised release. Alameda County Superior Court Judge James Cramer, however, rejected these pleas claiming that Almena did not show remorse for the fatal fire or for that matter acknowledge any responsibility, painting himself more as a victim and a witness.

The judge stated that while the plea deal would have indeed been fair for Harris, he could not uphold it for just one defendant. His decision put the case on the path to a trial. After Cramer rejected the deal, Almena addressed the victims' families saying, "If I could give each one of you my life, if I could give you my children's lives, I would."

Over the course of the trial, the prosecution reasserted

the argument that the warehouse was illegally converted into an unsafe living space with complete disregard for fire codes and that victims didn't have enough notice, time or the ability to exit, due to a lack of sprinklers, alarms and adequate exit signage.

As for the specific role of the defendants, Almena had violated the lease he had signed in 2013 by immediately letting people live in the warehouse and had made substantial alterations to the warehouse space without acquiring the necessary building permits. In addition, he oversaw events that were held in the space without clearance from the city of Oakland.

In his defense, Almena stated that the owner of the warehouse, Chor Ng and his daughter Eva Ng, were informed of his plans to sublet the space, and had given him permission to do so. In addition, when told to obtain permits for the construction work within the warehouse, he had asked that the landlords take care of it. As his legal team pointed out, officials from numerous city agencies, including the police, the fire department and Child Protective Services had passed through the warehouse several times over the years and had never once red-flagged it or issued any eviction notices.

Given official records and the testimony of former tenants who were all led to believe that the space was safe, the landlords and city officials were certainly aware of the conditions in the warehouse. In fact, in 2007, prior to Almena signing the lease, the city had placed a lien on the property for "substandard, hazardous, or injurious conditions." Ng, who has owned the property since 1988, also had four other properties in Oakland that have been cited for blight.

Since its conversion into an artist collective, the fact that there were numerous tenants living in Ghost Ship and that the venue served regularly as an event space was an open secret. The official Tumblr page for Ghost Ship regularly advertised musical events, while the city received numerous complaints about unsafe conditions and construction in the warehouse. In 2014 and in 2016, city inspectors were sent twice to the warehouse in response to complaints, yet there were no steps taken to ensure proper safety precautions.

As the defense made clear in its closing arguments, Almena and Harris were being made the scapegoats for the city of Oakland, which failed to enforce its own building and safety regulations. This failure, however,

needs to be viewed in the broader context of a housing crisis brought about by the intensification of social inequality across the United States as a whole, and in the Bay Area in particular.

Home to some of the wealthiest individuals in the country, the Bay Area has witnessed a massive boom in property values and rents, driving the working class to seek informal housing for cheap rent. At the time of the Ghost Ship fire, the median cost of available rentals in Oakland was \$3000 per month, the same amount as the median monthly income for those looking to rent apartments.

In this context, it is not surprising that a warehouse—regardless of whether or not it conforms to safety standards—would be transformed into a residential space. The conditions prevailing in Ghost Ship prior to the fire are far from unique. In Oakland alone, it was estimated that over 200 warehouses function in a similar way, sans any permits.

It is not clear to what extent the jury's verdict reflects an understanding of the much broader forces and conditions responsible for such a horrific tragedy, in spite of the attempt by city officials to divert public anger. In any case, the acquittal of Harris and the deadlocked verdict against Almena sets the stage for the civil suit being brought by the victims' families against numerous city agencies, the landlords and PG&E for its failure to monitor, inspect and repair the equipment that provided electrical power to the building.



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