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Are the wrong defendants in jail for the Ghost Ship fire?



Charred windows and walls of the Ghost Ship warehouse in Oakland are seen Dec. 4, 2016, following a fire that killed 36 people. (Jessica Christian/2016 S.F. Examiner)

By Lara Yeretsian on June 25, 2017 1:00 am



No death can be more horrific than burning alive in a firetrap with no means of escape.

The recent Grenfell Tower blaze in London is tragically identical to Oakland's Ghost Ship warehouse: years of neglect from building owners and cities that didn't do their jobs by enforcing basic fire code standards that could've saved the lives of about 100 people.

No one has been criminally charged in the London case, but Alameda County District Attorney Nancy O'Malley has been quick to haul two Ghost Ship tenants into court to answer to 36 manslaughter counts. I am sure the city of Oakland was under insurmountable pressure to find a culprit for this tragedy — the logical way of thinking is not to let the victims die in vain and to hold someone responsible. We all grieve for the families of these victims.

But are the right people in jail?

Attorneys for master tenant Derick Almendra and his subtenant Max Harris, who hosted the fatal dance party on Dec. 2, 2016, say the men are scapegoats. This could be true.

In order to obtain an involuntary manslaughter conviction, O'Malley's office must show a causal connection between an unlawful act or criminal negligence by the defendants and the deaths of the 36 fire victims. The prosecution will have the burden of proving beyond a reasonable doubt that the deaths of the fire victims were not only reasonably foreseeable, natural and probable consequences of the unsafe conditions created by the

the prosecution will also have to show that the unsafe conditions at the building caused the fire and/or prevented people from escaping, resulting in their deaths. In other words, just guessing as to the likely cause of death is not enough. If the prosecution is unable to show that the so called "unsafe conditions" caused the fire, and that the lack of fire safety measures was the real reason people were unable to escape, they will not have a case.

In a nutshell, there is enough here for reasonable doubt.

Others may have played a bigger role in this tragedy: the building owner who rented out a firetrap and did not make improvements despite numerous complaints to the city; the Oakland Fire Department, whose personnel could see from the outside of the building that it was in a severe state of disrepair yet never conducted an inspection; the Oakland Police Department, which fielded more than 30 citizen complaints yet obviously did not further investigate.

And what about the occupants of the adjacent building, who provided the electrical power that could have sparked the blaze, and PG&E, which didn't upgrade transformers in the area, according to media reports.

All of this raises another huge issue: I do not see how the city — or the county, for that matter — can fairly prosecute this case given their potential liability. This matter should have been turned over to the California Attorney General's Office.

Obviously, the two tenants did not wish for anyone to die. But can you honestly point to their actions and say they caused every single one of those deaths?

But for the city being negligent in going onto the property and checking it out, this never would have happened. But for the landlord's negligence in supervising his tenants or the property, this never would have happened.

At this point, without further investigation that could determine causation, this case belongs in the civil courts. I believe the prosecution has gone after the lowest-hanging fruit.

Lara Yeretsian is a criminal defense attorney in Los Angeles with a 20-year career spanning cases such as convicted murderer Scott Peterson to high-profile property crime and white-collar criminal cases.

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