

***BIC Meeting of
March 19, 2014***

Agenda Item #4b

DBI Legislative Tracker

March 19, 2014 Update

Per the BIC request for information about legislation, actually or potentially, affecting the San Francisco Building Code, below please find the most recent Summary of such legislation from the Board of Supervisors' Legistar Program, as well as from scheduled Code Advisory Committee meetings and recommendations:

Mayor's Executive Directive 13-01 – Affordable Housing Production and Preservation. DBI's Ron Tom continues to work closely with MIS and with Planning to improve priority processing of all projects aimed at increasing/preserving the number of affordable housing units.

STATUS: Director Tom Hui, and Ron Tom, attended an update meeting yesterday, March 18th, with the Mayor's Office and others on the implementation of these process improvements. Progress is being made.

File No. 131148 --Authorization of Dwelling Units Installed Without a Permit. Sponsored by Supervisors Chiu, Wiener and Cohen this proposed ordinance amends Planning and Building Codes to provide a city-wide process for granting legal status to existing dwelling units constructed without the required permits, and establishes a fee for administering the authorization program; amending the Administrative Code to provide that a dwelling unit that was subject to the Rent Ordinance before legalization will remain under the Rent Ordinance, and requiring the property owner to provide relocation assistance to displaced tenants; making environmental findings, and findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and directing the Clerk to submit this Ordinance to the California Department of Housing and Community Development in accordance with state law.

STATUS: Supervisor Chiu introduced a substitute ordinance on Feb. 11, which will be heard at Land Use on March 24. The BIC voted unanimously on Feb. 19 to support the substitute legislation that was heard at the Planning Commission last Thursday, March 13. Planning approved on a 6-1 vote. The new version would allow in-law units that have current notices of violation to have those violations suspended temporarily if the owners pursue legalization, and would abate the NOV if the owners legalized within one year. One other change in the draft legislation also would require in-law units pursuing no-fault evictions after March 2014 to wait 10 years before such owners would be eligible to apply for legalization. It remains to be seen how many owners may step forward to participate in this voluntary legalization program. DBI staff helped shape the legislation, and will work with owners who voluntarily apply to participate in this program to meet building life safety requirements. Once enacted, the Director of DBI, with Planning, will issue a joint report on the effectiveness of this program every six months for the initial three years, while Planning will create and maintain a master list of authorized/legalized units.

File No. 140122 -- Ordinance recognizing Small Business Month in May 2014; amending the San Francisco Planning Code and the San Francisco Building Code for the third consecutive year to waive fees only for the month of May for certain façade improvements; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan and priority policies of Planning Code Section 101.1.

STATUS: This legislation was introduced by Sup. Tang on Feb. 11 and sent to the Budget and Finance Committee for review. BIC will hear it on March 19th, and will likely support the waiver of these permit review fees again as an incentive to owners to make façade improvements that are helpful to small businesses throughout the City. The Supervisor is increasing public outreach to attract more participation in this fee waiver program this year than in previous years. Per DBI statistics, we average about 8 permit review requests of this nature in May over the past six years, meaning that such waivers cost DBI less than \$10,000 in fees. DBI is very supportive of assisting small businesses with this program – and coming in May, it also is a community supportive way to make the public aware of Building Safety Month, celebrated nationally and locally, every May.

File No. 140120 -- Ordinance amending the Building Code to require that existing private elementary and secondary schools obtain an evaluation by a licensed structural engineer for performance during a future earthquake, and assessing a fee for Building Department review and related evaluation processing; requiring that a building changing to a school occupancy classification comply with the evaluation requirements; making environmental findings, and findings under the California Health and Safety Code; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission.

STATUS: The BIC voted unanimously at its February 2014 meeting to support this legislation, which is expected to be heard in March at the Full Board. Land Use also voted unanimously in support. DBI would help develop a 'Screening Form,' similar to what is being used for the mandatory soft story seismic retrofit program, to help facilitate the implementation of this legislation.

Proposed Amendment of Chapter 38 in Health Code to Building Code requiring an enhanced ventilation system in building projects located within DPH's Air Pollutant Exposure Zone.

STATUS: Still in the drafting phase, with no File number. BIC heard details about the proposed ordinance at its February meeting, and raised questions that the Department of Public Health is researching. We expect this to be on a future BIC Agenda, with answers to the Commission questions raised. The ordinance would essentially require DBI Mechanical Plan Review to ensure proposed projects within this DPH Air Pollution Exposure Zone have enhanced ventilation systems to reduce public health hazards.

Ordinance No. 130119 -- Mandatory Seismic Retrofitting of Soft Story buildings – The Mayor introduced this at the Board on February 5th, with six co-sponsors, Supervisors Chiu, Wiener, Mar, Farrell, Breed and Yee; substituted in March; passed unanimously and Mayor signed April 18, 2013. Became legally effective June 3rd. Targets a type of wood framed building three or more stories, with five or more dwelling units, whose permit applications pre-date Jan. 1, 1978; studies show they are likely to collapse in a strong earthquake without retrofitting.

STATUS: A reminder notice to all notified owners is being mailed to make owners aware of the shrinking timeline to complete the required Screening Forms and return these to DBI. DBI also will take advertisements in neighborhood and major media outlets, in April and May, to help increase owner awareness about the mandatory retrofit program. To date, DBI has accepted about 693 Screening Forms to comply with the mandatory retrofit program; released 263 (38 percent) addresses as not subject to the ordinance; and rejected 80 screening forms as in error and in need of correction. We have approved 11 optional evaluation forms (which removes those addresses from the mandatory program); and now have a total of 27 filed permits, and 15 permits where retrofitting work may already be under way; and 3 retrofit jobs completed. BIC also approved three additional Administrative Bulletins, AB-107, AB-032 and AB-084, related to these mandatory retrofits that are expected to be adopted by the Board of Supervisors in coming weeks. The most recent free public workshop on the Mandatory Retrofit Program occurred on January 28th and attracted 2,500 participants; DBI is investigating hosting in the new year at the Chinese Cultural Center a free workshop in Cantonese for Chinese-American property owners affected by this ordinance.

Ordinance No. 120669 -- amending the Subdivision Code, by adding Section 1396.4, to adopt a condominium conversion fee applicable to certain buildings that would be permitted to convert during a seven year period, and subject to specified requirements, including lifetime leases for non-purchasing tenants; adding Section 1396.5, to suspend the annual condominium conversion lottery until 2024 and resume said lottery under specified circumstances tied to permanently affordable rental housing production; amending Section 1396, to restrict future condominium lotteries to buildings of no more than four units with a specified number of owner occupied units for three years prior to the lottery and provide an exception for certain five- and six-unit buildings to participate in the lottery; and adopting environmental findings.

STATUS: We're doing 12-plus inspections per week, and have roughly 200 applications in for inspections. We're anticipating another wave of new applications next March or April and thus are working to reduce the current backlog. To date, no law suit has yet been filed as had been anticipated when the ordinance took legal effect July 29, 2013 -- meaning that the 'poison pill' element has not yet materialized. Such a law suit could 'freeze' applications pending litigation and a final court ruling, which is why both DBI and DPW anticipated a dramatic increase in numbers of inspection requests.

State Legislation -- In an effort to be apprised of, and involved in, proposed State legislation that may affect the Department, we continue to track bills that CALBO monitors in the Senate and. Sept. 13th was the last day for the Assembly and Senate to pass pending bills, and Oct. 13th is the last day for the Governor either to sign or veto bills passed on/before Sept. 13th. New CALBO updates will soon be posted; however, current State legislation of note includes:

Ellis Act Amendments -- Senator Mark Leno introduced on Feb. 24 Senate Bill 1439, which would authorize the City to prohibit new property owners from invoking the Ellis Act to evict tenants for five years after the acquisition of a property; ensure that landlords may only activate their Ellis Act rights once; and creates penalties for those who violate this law. SB 1439 is expected to be heard in the State Senate Policy Committee sometime this spring. Supervisor David Campos also is working with Senator

Tom Ammiano on a separate bill that would be even more restrictive, seeking an outright moratorium on these evictions.

Postponement of 2013 Building Energy Efficiency Standards – Per a CALBO update received a few days ago, the California Energy Commission voted unanimously to delay implementation of the new code cycle energy requirements until July 1, 2014, rather than the expected January 1, 2014 date.

California State Fire Marshal Issued Information Bulletin 13-006 – As tied to Senate Bill 745, and signed by the Governor, the law revises language to state Commencing July 1, 2014 all smoke alarms, including combination smoke alarms, that are solely battery-powered shall contain a non-replaceable, non-removable battery that is capable of powering the smoke alarm for 10 years. Manufacturers will have until July 1, 2015 to offer these 10-year batteries and to update life-safety equipment listings.

SB 407 – Padilla (D) – Installation of water use efficiency improvements. Effective Jan. 1, 2014 requires non-compliant plumbing fixtures to be replaced by water-conserving plumbing fixtures when a property is undergoing permitted alterations or improvements. Construction related to repairs or maintenance of the structure is not considered to be an alteration or improvement. Additional details available on the CALBO web site, where a detailed analysis is posted. DBI Plumbing Inspection professionals are aware of this new legislation.

AB 1801 - Campos (D) -- Land Use: Fees: Energy Systems Amends existing law relating to fees for land use and building permits. Prohibits a city, county, or city and county from basing the calculation of the fee charged for solar energy system on the valuation of the system, or any other factor not directly associated with the cost to issue the permit, or the calculation of the fee on the valuation of the property or the improvement, materials, or labor costs. Requires the local entities to identify each fee assessed on the applicant on the applicant invoice.

Status: Signed by Governor. Effective January 1, 2013.

SB 1222 – Leno (D) -- requires local jurisdiction residential permit fees for rooftop solar energy systems to not exceed the estimated reasonable cost of providing the service. Fee charged may not exceed \$500 plus \$15 per kilowatt for each kilowatt above 15kW. Passed and is effective January 2014-2018.

SB 1186 - Steinberg (D)

Disability Access: CASp Requires an attorney to provide written advisory to a building owner or tenant with each complaint or settlement demand for any construction-related accessibility claim. Provides that a violation may subject the attorney to disciplinary action. Requires notification that leased or rental property has been inspected by an access specialist. Updates the responsibilities of the State Commission on Disability Access. Provides for construction liability. Relates to an alternative method of compliance.

Specifics: 4467. (a) On and after January 1, 2013, and until December 31, 2018, any applicant for a local business license or equivalent instrument or permit, and from any applicant for the renewal of a business license or equivalent instrument or permit, shall pay an additional fee of one dollar (\$1) for that license, instrument, or permit, which shall be collected by the city, county, or city and county that issued the license, instrument, or permit.

(b) The city, county, or city and county shall retain 70 percent of the fees collected under this section, of which up to 5 percent of the retained moneys may be used for related administrative costs of this chapter. The remaining moneys shall be used to fund increased certified access specialist (CASp) services in that jurisdiction for the public and to facilitate compliance with construction-related accessibility requirements. The highest priority shall be given to the training and retention of certified access specialists to meet the needs of the public in the jurisdiction as provided in Section 55.53 of the Civil Code.

(c) The remaining 30 percent of all fees collected under this section shall be transmitted on a quarterly basis to the Division of the State Architect for deposit in the Disability Access and Education Revolving Fund established under Sections 4465 and 4470. The funds shall be transmitted within 15 days of the last day of the fiscal quarter. The Division of the State Architect shall develop and post on its Internet Web site a standard reporting form for use by all local jurisdictions. Up to 75 percent of the collected funds in the Disability Access and Education Revolving Fund shall be used to establish and maintain oversight of the CASp program and to moderate the expense of CASp certification and testing.

(d) Each city, county, or city and county shall make an annual report, commencing March 1, 2014, to the Legislature and to the Chairs of the Senate and Assembly Committees on Judiciary, and the Chair of the Senate Committee on Budget and Fiscal Review and the Chair of the Assembly Committee on Budget, of the total fees collected in the previous calendar year and of its distribution, including the moneys spent on administrative services, the moneys spent to increase CASp services, the moneys spent to fund programs to facilitate compliance, and the moneys transmitted to the Disability Access and Education Revolving Fund. A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795.

Legislative Intent: There have been questions raised in regards to whether the new \$1 add-on fee can be applied to building permits. Click here <[link:http://www.calbo.org/documents/SB%201186%20-%20Author's%20Letter.pdf](http://www.calbo.org/documents/SB%201186%20-%20Author's%20Letter.pdf)> to view a letter of intent from Senator Darrell Steinberg's office. The letter explains that the new fee is not intended to apply to building permits.

Status: Signed by Governor. Effective January 1, 2013.