

**BUILDING INSPECTION COMMISSION (BIC)
Department of Building Inspection (DBI)**

REGULAR MEETING

Wednesday, May 21, 2014 at 9:00 a.m.

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416

Aired Live on SFGTV Channel 78

ADOPTED August 20, 2014

MINUTES

The regular meeting of the Building Inspection Commission was called to order at 9:07 a.m. by President McCarthy.

1. Call to Order and Roll Call – Roll call was taken and a quorum was certified.

COMMISSION MEMBERS PRESENT:

Angus McCarthy, **President**

Frank Lee, **Commissioner**

James McCray, Jr. **Commissioner**

Debra Walker, **Commissioner**

Sonya Harris, **Secretary**

Warren Mar, **Vice-President**

Kevin Clinch, **Commissioner**

Myrna Melgar, **Commissioner**

D.B.I. REPRESENTATIVES:

Tom Hui, **Director**

Edward Sweeney, **Deputy Director, Permit Services**

Dan Lowrey, **Deputy Director, Inspection Services**

Gayle Revels, **Acting Chief Financial Officer**

William Strawn, **Legislative and Public Affairs Manager**

Hema Nekkanti, **IS Project Director**

John Hinchion, **Senior Inspector of Code Enforcement**

CITY ATTORNEY REPRESENTATIVE

John Malamut, **Deputy City Attorney**

2. President's Announcements.

President McCarthy made the following announcements:

- Compliments to Director Hui and Robert Chun for the briefing they provided last week to the Building Official of Santa Monica, California, who visited San Francisco for advice on how that city may want to proceed with its own seismic safety retrofit program. Building Official Takiguchi (**TA Kee-GUCHI**) and his associate Chris wrote a letter thanking Director Hui, Robert Chun, and Patrick O'Riordan for their visit and for a very informative session on DBI's Soft Story Retrofit Program. Mr. Takiguchi also said their visit was hugely valuable on all fronts – General, Technical, Financial and Publicity, and he highly

commended the Mayor's Office and DBI for the tremendous and impressive task of implementing the Soft Story Program.

- Warm thanks to DBI Chief Building Inspector Tony Grieco for his excellent customer service. Mr. John Barber of Mission Housing thanked Tony for his assistance in guiding him through the DBI/OTC process earlier this month. Mr. Barber also mentioned that he hadn't been to DBI since the 90's and he noted that significant and productive changes have been made in DBI's approach to the business and that's good for the City!
 - Congratulations to Director Hui, who was interviewed in Cantonese on the Sing Tao Chinese Radio Talk Show program about steps interested owners may want to take to legalize currently illegal units. This was a live, call-in radio show, and Director Hui got plenty of questions about situations and he provided helpful advice.
 - Director Hui also has been invited to do a Channel 26 Chinese TV interview with Annie Chung, the President and CEO of Self-Help for the Elderly. We expect this interview to be scheduled in the next few weeks, providing Director Hui with an opportunity to remind viewers about the rapidly approaching September 15th deadline to submit soft story retrofit screening forms.
 - DBI also has been invited to be part of the June 21st Home Buyer and Investor EXPO, which will be held from 11-5 p.m. on the 1300 Block of Funston, between Irving and Judah. DBI staff volunteers will respond to questions about plan review, inspections and code enforcement – as they frequently do for these community outreach events.
3. General Public Comment: The BIC will take public comment on matters within the Commission's jurisdiction that are not part of this agenda.

Mrs. Theresa Votruba said that she was the building manager at a rent controlled building which has been unfairly targeted by DBI. While her building was built in 1963, there are many of the oldest residences from pre-earthquake periods within a three-block radius of her building. The historic preservation of Telegraph Hill height limitations affording views of Coit Tower for all the city to see and safety, beauty, and individual privacy are among the strongest concerns that she holds for her neighborhood. She has paid a significant price to attempt to hold DBI to the standards of the general plan, and has been thus far on the losing end of the proper monitoring of the complaint process. She had a difficult four year introduction to members of CES and members of DBI, and has come to discover that they do not share the position stated above. She has been told time and time again that the Building Department does not care about building height, AB-009 local equivalencies for fire, rear yard setback requirements, solar memorandums, and optimum siting, neighborhood notification and RH3 or transparency of any kind. DBI does what it wants, when it wants, and for any reason it chooses. She has serious water intrusion issues that need a CES investigation, but instead it was shut down twice without inspection. Water is leaking through her garage from the building next door because of exterior siding on the neighboring building which is deteriorating and not water tight. One of the Building Inspectors has decided he does not like her building and Planning approved and permitted solar installation – HBC required a chimney box to match existing box, and new garden and safety railing as built approvals. Complaint #201454761 filed on February 28, 2014 attests to this situation. Required correction

took place on March 15th with the submittal of as built revisions of a few inches. The complaint is still active, and roof issues have existed in her neighborhood: Director’s Hearing reports have been filed at the Building Inspector’s insistence. Everything DBI did has been mishandled and nobody cares about transparency, height, and legally buildable areas.

Commissioner Walker asked Mrs. Votruba for the property address and she said it was 218 Union Street.

- 4. Discussion and possible action to approve and swear in members of the Board of Examiners and reappoint the existing members who include: Michael Cashion, High-Rise Sprinkler – Building Owner; Manuel Flores, Building Trade; Dick Glumac, Mechanical Engineer; James Reed, Electrical Contractor; Armin Wolski, General Contractor; Patrick Buscovich, Structural Engineer. Appointment/Reappointments recommended by the Nominations Sub-Committee are: Dan Caracciolo, Plumbing Contractor; Jeremy Schaub, Tenant & Licensed Architect, Civil or Structural Engineer; Randy Collins, Licensed Structural Engineer specializes in seismic improvements; Jamison Hyde Curry, Property Owner & Licensed Architect, Civil or Structural Engineer. (Vacant) Electrical Engineer; (Vacant) Registered Fire Protection Engineer. Terms to expire September 15, 2016.

Vice-President Mar made a motion, seconded by Commissioner Melgar, to accept the recommended appointments/reappointments to the Board of Examiners: Michael Cashion, Manuel Flores, Dick Glumac, James Reed, Armin Wolski, Patrick Buscovich, Dan Caracciolo, Jeremy Schaub, Randy Collins, and Jamison Hyde Curry.

Vice-President Mar thanked all of the applicants for their willingness to serve, and said that for the first time in a while there were a lot of applicants for the Board of Examiners seats.

Secretary Harris called for public comment and there was none. Secretary Harris called for a roll call vote:

President McCarthy	YES	Vice-President Mar	YES
Commissioner Clinch	YES	Commissioner Lee	YES
Commissioner Melgar	YES	Commissioner Walker	YES
Commissioner McCray	YES		

The motion carried unanimously.

All of the members of the Board of Examiners came to the podium, introduced themselves and were sworn in. Vice-President Mar read the Oath of Office which the members repeated. The Commission congratulated everyone and the audience applauded.

RESOLUTION NO. BIC 023-14

5. Director's Report.

a. Update on DBI's finances.

Ms. Gayle Revels, Acting Chief Financial Officer, gave an update on DBI's finances and discussed the following points:

- DBI is about 83% through the year, and has done all transfers to the capital projects.
- Services to other departments are a little lower than expected, but close to 100% of the Department's budget in work orders will be spent.
- Non-personal related expenses are a little low, but DBI has ordered chairs, cars, and other big things that have not been received yet. Closer to the end of the year DBI will receive a lot of the big items that were ordered.
- There will be savings in employee salaries and fringe. Department is not fully staffed up, but has added new positions this year and have vacancies left over.
- \$4M in savings in salaries and fringe, but Ms. Revels believes DBI will save more than the department has in years past.
- DBI is seeing a lot more revenue come in, and seeing reverse in charges for services.
- Department received second payment of the year for apartment and hotel rentals, so showing about 90%.
- Charges for services are about 23% over what was budgeted for the entire year, and will be about 26% or 27% over by the end of the year.
- Department has not needed to transfer money from the fund balance to cover expenses this year.
- Capital projects will be discussed at the next meeting, and a more comprehensive report on the fee study will be done.

Commissioner Walker said the report is all very good news, but regarding staffing DBI is anticipating a lot more work with the seismic program and in-law conversion legalizing program. She believes the Department still has some retirees that were brought back while waiting for the lists to come out, so she asked about the status of the empty positions that need to be filled with permanent staff.

Ms. Revels said that DBI has some retirees, Proposition F positions, but not as many as they used to. There are still a few clerical and engineering staff, but the Department is planning to hire permanent positions. The Permit Technician series is fully approved, and two higher level positions have been posted so when that is finished DBI will be hiring more Permit Technicians instead of Clerks which will take care of some of the Proposition F's and fill the vacancies in those classes. DBI has also been doing a cleanup, and Director Hui has directed everyone to clean up desks that have been used for storage, so now there is more space for new employees. Space has been freed up to hire probably 20 or more people, and that process is also starting. A new budget has already been requested for the areas mentioned, such as illegal units: The Mayor's budget comes out May 22 but DBI is expecting more positions for those new programs. DBI is still trying to find supplemental space for staff and there are lots of ideas "in the hopper", but they are trying to see which ones will pan out.

Commissioner Melgar asked when the Department would have a permanent Deputy Director, and said that Ms. Revels has done a great job.

Director Hui said that the Department has gone through the selection process for the Deputy Director of Administration and Finance, and are doing final interviews. Following this DBI will make the job offer, and hopefully all of the fingerprinting and background check will be done so that he could formally announce the selection next month.

b. Update on proposed legislation.

Mr. Bill Strawn, Legislative and Public Affairs Manager, gave an update on proposed legislation and addressed the following items:

- **File No. 131148 – Authorization of Dwelling Units Installed Without a Permit**

Supervisor David Chiu's legislation on legalization of an illegal unit under a voluntary program passed, and took effect on the 17th. DBI's Technical Services Division has drafted a screening form and DBI, Planning, and Rent Board staff and other participants are meeting with Supervisor Chiu's office. Goal is to finalize documentation so that anybody who tries to legalize their units has a relatively smooth and seamless process.

- Director Hui and the Fire Marshall signed a new information sheet that provides detailed guidelines to try to prevent fires in the future. The Fire Department investigation ruled that the recent Mission Bay fire was an accident.

- **File No. 140122 – Ordinance recognizing Small Business/Building Safety Month in May 2014**

Supervisor Katy Tang's legislation passed and the BIC supported it to encourage awning replacements and façade improvements. There have only been one or two projects so far, and this is an incentive but has not brought forth many small businesses to take advantage of the fee waiver for plan review at both Building and Planning.

- **File No. 130374 – Ordinance expanding the definition of a lobbyist and requiring Permit Consultants to register with the Ethics Commission.**

Supervisor Chiu's legislation will require permit expeditors to register with the Ethics Commission. DBI will be attending the meeting because some Committee members may have questions about how to monitor that. DBI does have a form that keeps track of who is representing others on behalf of the project.

- **File No. 140381 – Proposed ordinance to permit certain short-term rentals of residences under stipulated conditions; through listings with AirBnb, VRBO, Home Away, etc., attempts to codify widespread practices that are illegal uses under current Planning Code.**

This legislation would introduce some regulatory measures in these types of shared economy activities. There is a serious question that the Planning and Building Departments continue to have over how this will be enforced, but all parties are working on it.

c. Update on Permit Tracking System.

Ms. Hema Nekkanti, I.S. Project Director, gave an update on the Permit Tracking System and discussed the following points:

- DBI is continuing to work on the data conversion review, and the vendor is continuing to fix errors that were pointed out, so the Department is making good progress on that and staff is into Round Two for the data conversion.
- Staff is continuing to map the data that is incomplete.
- The Subject Matter Experts (SME's) are helping to re-test and work out the bugs and the vendor is accepting the changes that were made.
- In August there will be specialized training for a minimum of two weeks, where there are small groups training for the job that they do.
- The Go Live date is still in September.

d. Update on major projects.

Director Tom Hui gave an update on major projects and stated that they have increased by 7.1%, and the number has gone up every month for the last six months. Before he expected the number of projects to slow down, but that has not happened. It is good news for the Department and more staff is needed, so Director Hui is planning ahead and working with DHR on hiring. The number one hiring priority is the Senior Housing Inspector test, and the second one is the Senior Electrical Inspector, and parallel is the Permit Technician test. The Senior Housing Inspector and Senior Electrical Inspector tests have not been done for a long time, which is why Director Hui made them a top priority. DBI is also pushing ahead for the lists and once DHR has them for one to two years, then the Department will continue with the tests.

Commissioner Walker asked what was the timeframe on being able to hire? Director Hui said the positions will be posted. For example, the Senior Housing Inspector position has been posted and there are applicants to consider which would take at least two to three months.

Vice-President Mar said that he wanted to make sure that Human Resources had all of the lists and tests in place for these positions. Director Hui said the three positions he mentioned are the major priority, because DBI has never tested that much and Permit Technician is a new series.

e. Update on code enforcement.

Deputy Director of Inspection Services, Dan Lowrey, said that he wanted to thank all the staff (Clerks, Inspectors, Code Enforcement, Housing, and Building) for working very hard, and customer service has been good which is reflected in the breakdown of inspections and complaints. Mr. Lowrey also mentioned that new statistics have been added on the monthly update and graphs to include "Routine Inspections" under HIS and "# of Cases Referred to BIC-LC" and "# of Cases Referred to City Attorney" under CES. The graph has been expanded to add more transparency. DBI has also put a working group together to look at the complaints and the NOV process. All of the Chiefs are involved, along with John Hinchion and Donal Duffy of Code Enforcement. Mr. Lowrey said that he has copies for the BIC to look at, and he gave one to President McCarthy.

Also, if the Commissioners have any comments they can submit them to the working group, and they will report back to the BIC.

President McCarthy said that the Commission discussed this a while ago, and he knows Commissioner Mar is very interested in the topic. President McCarthy said that there is also a gentleman here that was at the Government and Audit Oversight (GAO) meeting, and he asked him to come to the podium.

Mr. Jerry Dratler stated that he was one of the Civil Grand jurors who worked on the previous report on DBI. Mr. Dratler said that he has been working with Dan Lowrey and his group on organizing the NOV data, so the reporting can be improved.

President McCarthy said they met about two months ago, and what is important is that this continues because he believes Mr. Dratler is going to give staff great resources in figuring out how to approach the NOVs, particularly the ones “in purgatory” that we can never get an answer to.

Commissioner’s & Staff Question & Answer Discussion:

- President McCarthy asked if any other meetings are scheduled soon, because Commissioner Mar would probably want to attend? Mr. Lowrey said he will be scheduling a meeting in about two weeks, and Mr. Dratler and the Commissioners are welcome.
- Mr. Lowrey said Mr. Dratler gave him an email earlier this week, but he has not had time to respond yet.
- Staff is open on the complaint and NOV process, and Mr. Dratler has good ideas but Mr. Lowrey has also received good input from staff on how to implement it and make it more transparent.
- Complaints can be tracked and the public can see where they are routed: They can be open and inactive depending on the type of complaint and if it has been investigated and closed or abated they could last a long time.
- 25% of complaints have Notices of Violation, and staff is paying attention to that but have to classify the complaints to show where they are.
- The working group has looked at the last five years of complaints and violations; Staff is trying to close and abate them to reduce the numbers open.
- President McCarthy asked if staff could keep this program on track, and provide a new policy on NOV’s since it keeps appearing in the grand jury report. Frustrating that DBI is making progress, but doing a bad job of getting it out to the public.
- Mr. Lowrey said that staff has been working very hard on complaints and trying to clarify the process.
- Vice-President Mar said that he would be happy to participate in the committee if they meet again, and he wanted to make two points: 1) Neighbors complain that when owners get an NOV they go to Planning to try to get what they built legalized, knowing that Planning will take a very long time to get back to them. The NOV then sits in abeyance because it is in Planning. 2) When cases are referred to legal (Litigation Committee/City Attorney) it could take a long time to resolve the issue. Also, staff says they cannot talk about the case because it is at the City Attorney and that is frustrating to citizens also.
- Mr. Lowrey said that staff has taken suggestions from Mr. Dratler, and are actively working on the NOVs. Some suggested categories are: Open at Planning Dept.,

Emergency Orders, Orders of Abatement, Vacant Building, Soft-Story Ordinances, Emergencies, Referrals to Code Enforcement, Work without Permit, Electrical/Plumbing violations.

- Mr. Lowrey said staff is trying to key the categories that are most important, and the report will be descriptive and show the action that is being taken.
- Chief Housing Inspector Rosemary Bosque mentioned the challenge of property owners trying to legalize their units, and comply with Supervisor Chiu’s legislation. Ms. Bosque commended Director Hui for asking staff to provide a list of all open cases that have NOV’s that were issued in Housing and the ones that were recently abated within the timeframe specified in the legislation.
- Ms. Bosque mentioned that HIS staff will be mailing packages with information regarding Supervisor Chiu’s legislation on illegal dwelling units.
- DBI’s code enforcement outreach vendors and all of the collaborative will have information to make sure that it gets out to property owners as well.
- Ms. Bosque said HIS staff recently did the audit of hotels including: Routine inspections, looked at community kitchens, looked at the 311 policy, compliance with HCO, whether they had community kitchens and if the buildings had elevators.
- Ms. Bosque said once ACCELA is online more data and information can be entered into the computer system.
- Commissioner Melgar asked Ms. Bosque from her perspective as a manager, what she was planning in terms of human resources and others in the process of the legalization of accessory units? Ms. Bosque said from the code enforcement standpoint she plans to walk people through the process, and make sure they have the highest requirements regarding electrical, mechanical, and plumbing.
- Director Hui said the Department has a screening form that will be available in different languages, and have information on how to assist customers.
- Vice-President Mar thanked Housing Inspection Services for reporting on routine inspections, and said that Senior Inspector Karcs had a lot of ideas about how to do the routines, and having Inspectors who go to a building because of an NOV to proceed to do the routine as well because it is an efficient use of the Inspectors.
- Vice-President Mar said a lot of violations that end up at the Abatement Appeals Board are in the common areas of SROs or in multi-unit buildings, so as staff does routines maybe they will catch a lot of that before it becomes a major NOV.

Deputy Director Lowrey presented the following Building Inspection Division Performance Measures for April 1, 2014 to April 30, 2014:

• Building Inspections Performed	4968
• Complaints Received	253
• Complaint Response within 24-72 hours	221
• Complaints with 1 st Notice of Violation sent	51
• Complaints Received & Abated without NOV	186
• Abated Complaints with Notice of Violations	39
• 2 nd Notice of Violations Referred to Code Enforcement	31

Chief Housing Inspector Rosemary Bosque presented the following Housing Inspection Services Performance Measures for April 1, 2014 to April 30, 2014:

Senior Inspector of Code Enforcement John Hinchion presented the following Code Enforcement Services Performance Measures for April 1, 2014 to April 30, 2014:

Senior Inspector Hinchion said that the Complaint Review Panel has two steps: 1) Categorizing different complaints and 2) Going into those specific categories. For example, if there is work without permit and the case is referred to Planning there is not a guaranty that it is going to be held indefinitely. Describing these NOVs as being in purgatory is saying they are in a temporary place on the way to hell, which in this case is Code Enforcement. If a case is in Planning for 12 months or so then perhaps a policy decision can be made in the department that after a particular time if the permit is not issued that case gets a second notice and is sent to Code Enforcement and is scheduled for rehearing.

Commissioner McCray said he could not help but comment on purgatory. Commissioner McCarthy said that he came up with that term, but the BIC can change the word. Commissioner McCray quipped that there are venial and mortal sins being dealt with in purgatory and he supposed venial have one response from the department and mortal have another, so he was trying to determine which are the mortal and how they get additional support that Ms. Bosque referred to.

Ms. Bosque said that Commissioner McCray was right, and all illegal unit cases are not created equal. One of the biggest things for staff is to find out if the unit is occupied and if it has an imminent hazard, which is what the department is looking at with the new legislation. If someone tries to legalize a unit, the NOV is held in abeyance unless there is a substantial problem.

There was further discussion regarding illegal in-law units, people building beyond the scope of a permit, and possibly setting up an ad hoc committee to address NOVs.

6. Discussion of possible items for the joint meeting between the Building Inspection and Planning Commissions.

President McCarthy said that he promised to try to keep this on track to see if he could get the Joint Meeting scheduled with the Planning Commission. He and Vice-President Mar met with Planning Department staff to come up with possible agenda items.

Vice-President Mar said that he tried to truncate some of the discussion topics, so he only had one main topic to put forward which is discussing criteria for over-the-counter plan check versus submittals of plans to their department. Particularly what the Planning staff's views are on how to set up the technical criteria, because it has been an ongoing discussion for the Department of Building Inspection. He believes this would be in the spirit of having the two departments collaborate a little more closely. Vice-President Mar also wanted to discuss serial permitting, since the BIC has gotten a lot of complaints from citizens and neighbors. A lot of these permits are done over-the-counter: Whether it is a single family residence or commercial building where they are doing a massive amount of tenant improvements, owners have seen it to their advantage to pull multiple permits through the OTC process and sometimes they file multiple addendums.

Commissioner Walker said that she wanted to point out that it has taken over six months to schedule a meeting with the Planning Commission, and to set an agenda. She has submitted her topics verbally many times, so she hopes that a meeting will be scheduled. Code enforcement is a huge issue that oftentimes things get referred back to Planning for issues that stem from a Notice of Violation, and the same is true for any kind of permitting that has to be evaluated by their department. She would like to get some sort of time frame from the Planning staff in order for DBI staff to be able to tell the project sponsor when they should expect their permit. Both commissions could talk about that topic as it relates to every division at DBI.

Commissioner Melgar said that she has several issues that all have a common thread, and she thought it would be a good idea to consider having a regular meeting once a year. There are a bunch of issues that touch on both planning and zoning, and how the Building Code is enforced. She pointed out for example, the mid market changes and the conversion of office space to housing and DBI's involvement with this. Another example is re-zoning of the eastern neighborhoods, which created the category of PDRs. There are a bunch of folks with PDRs that have set up new live/work spaces all over the Mission and South of Market, and people are living in alternative family settings, artists, people in the tech industry, and so on. In terms of the Building Code, people never really thought how to get these units up to Code, not present a hazard while at the same time allowing people to live their lives and thrive. A third issue was Single Room Occupancy (SROs) that are all over the Tenderloin and Chinatown, which are coming to the end of their lives: There are buildings that have been around for sometimes over 100 years and there is not a plan for how to deal with them. They provide housing for the lowest income folks and are anchors of those communities. It is a planning issue more than zoning, but both need to be dealt with. Commissioner Melgar said it might be a good idea to create a sub-committee to tackle these issues.

Commissioner Walker said that the code enforcement aspect requires that DBI inspectors are out in the field helping Planning to enforce their codes, and that has been an issue since she has been on the Commission. She also mentioned that any change of use issues need to be looked at.

President McCarthy said as he figured the Commissioners have strong opinions, and he and Secretary Harris sent out emails asking them to articulate their ideas and put them in writing because the fear was if there were too many items then they would not be able to set up the meeting. The last time he and Vice-President Mar met with Planning they agreed to get back to them with a few items, and they outreached a few times since then but have not gotten any feedback. His “street smarts” told him this would probably be the situation, because it has been quite difficult to put this meeting together and confirm a schedule. He is aware that the Commission wants results, not excuses so they will try to get the meeting scheduled as soon as possible.

Secretary Harris called for public comment and there was none.

7. Review and approval of the minutes of the Special Meeting of February 4, 2014.

Commissioner Walker made a motion, seconded by Commissioner Melgar, to approve the minutes of the Special Meeting of February 4, 2014.

Secretary Harris called for public comment and there was none.

The motion carried unanimously.

RESOLUTION NO. BIC 024-14

8. Review and approval of the minutes of the Regular Meeting of February 19, 2014.

Commissioner Melgar made a motion, seconded by Commissioner Walker, to approve the minutes of the Regular Meeting of February 19, 2014.

Secretary Harris called for public comment and there was none.

The motion carried unanimously.

RESOLUTION NO. BIC 025-14

Secretary Harris stated that the next Commission meeting is scheduled for June 18, 2014.

The item for Commissioners Questions and Matters was not included on the agenda, so Secretary Harris informed the Commissioners to contact her regarding any items that they would like agendaized for the next meeting.

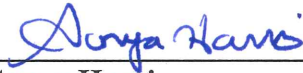
Adjournment

Vice-President Mar made a motion, seconded by Commissioner Melgar, that the meeting be adjourned. The motion carried unanimously.

RESOLUTION NO. BIC 026 -14

The meeting was adjourned at 10:35 a.m.

Respectfully submitted,



Sonya Harris
Commission Secretary

SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS	
Schedule Joint Meeting between the Building Inspection Commission and Planning Commission as soon as possible. – Walker, McCarthy	Page 10