

***BIC Meeting of
September 18, 2013***

Agenda Item #7b

DBI Legislative Tracker

September 18, 2013 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:

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: Land Use forwarded unanimously to the full Board on Sept. 9 Mayor Lee's amended ordinance to modify some evaluation and retrofit criteria, and to add seismic experts to the Board of Examiners. It also amends Housing Code to require Report of Residential Building Record (3R Report) to include details on whether the building is in the retrofit program and whether the retrofit has been completed.

Similarly, Land Use forwarded unanimously Supervisor Kim's trailing legislation, Ordinance No. 130706, which simplifies the Rent Board's hardship provisions to assist low-income tenants who may be subject to owner pass-through retrofit costs.

DBI began mailing on Sept. 12 the Mandatory Retrofit Notifications and Screening Forms to some 6,000 owners of buildings suspected to be subject to the new Mandatory Retrofit ordinance; and this list of those receiving this notification is now posted on the DBI web site. As DBI receives completed Screening Forms, suspected addresses may be removed from this list, so we expect regular updates of this list. A new DBI Information Brochure in English, Chinese and Spanish also is now available at DBI public counters, and also on the DBI web site. Plan Review Supervisor Robert Chun, an engineer, is heading DBI's Implementation Program, and working with Technical Services to manage this new program. Owners will have one year to respond to the screening form, where an engineer or architect may verify that retrofitting work has occurred and thus remove that address from the mandatory retrofit pool. The ordinance stipulates four risk levels and sets retrofit implementation timelines of four-seven years to comply. DBI also will publish two additional Administrative Bulletins as part of the ordinance, one addressing procedures, forms, etc., and the second one detailing technical compliance criteria.

Ordinance No. 130765 -- amending the Health Code to establish permitting requirements for two or more parcels that **share the use of alternate water sources for non-potable applications**; setting permit fees; and making environmental findings. Newly-proposed ordinance to provide alternate water sources for non-potable applications.

STATUS: Introduced by Supervisors Chiu and Mar in late July, DBI provided language modifications in June to the SFPUC draft legislation to prevent possible building code violations. We have sent this language to Supervisor Chiu and it has now been incorporated into the proposed ordinance.

Under Discussion by Supervisor Chiu, Avalos and other Supervisors – legislation to increase the number of legalized secondary units/in-laws – Supervisor David Chiu has invited a wide range of interested parties, including DBI and Planning, to develop possible legislation. While acknowledging many Supervisors over the years have attempted to fashion a legislative remedy to ongoing housing concerns, the Supervisors are conducting frequent meetings to work through existing legal requirements and to come up with draft legislation. Acting Deputy Director Dan Lowrey and Chief Housing Inspector Bosque are attending these sessions to provide building code and housing code expertise.

Newly-proposed ordinance to control construction equipment emissions – Though not yet introduced, this is proposed by the Department of Public Health and would amend the building code and administrative code to require contractors to develop and post publicly a ‘construction emissions minimization plan,’ as well as to provide quarterly reports. These requirements may be waived by the Director of DBI if satisfied there are no sensitive land uses within 1,000 feet of the construction site. The legislation would require DBI to notice on permits these new requirements to control job site emissions from equipment. The legislation will enable DBI to charge a fee to recover costs to enforce. We hope to meet with DPH soon to resolve implementation details.

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: This ordinance passed 8-3 on June 18th and was unsigned by the Mayor on June 28th. It took legal effect July 29, 2013. Due to a ‘poison pill’ element that could ‘freeze’ applications pending litigation and a final court ruling, both DBI and DPW anticipated a dramatic increase in numbers of inspection requests – a way of being ‘in process’ and thus possibly protected from adverse effects once a law suit is filed. As of Sept. 18, DBI has roughly 250 applications for inspection and is completing an average of 15 or more inspections per week.

Ordinance No. 130369 -- Updating Maher Toxic Cleanup Ordinance -- Planning, working closely with the Department of Public Health, the Mayor’s Office, SF PUC, DPW and DBI, are working with the City Attorney to finalize language. The issuance of building permits would be affected by newly-proposed requirements for project applicants to first perform soils and/or groundwater tests for suspected

environmental health hazards and to meet levels established/required by DPH if a project disturbs 50 or more cubic yards of soil.

STATUS: The ordinance passed and was signed by Mayor Lee on July 25, and takes official legal effect on August 25th. Effective August 15th a Senior Environmental Health Inspector from DPH began staffing work station 20 on DBI's Over-the-Counter Fifth Floor to respond to any customer questions about this new ordinance. The DPH Inspector will be available on Tuesdays and Thursdays, 10a.m. until Noon, for the first four months of implementation. Once DBI's new Permit Tracking System is up and running, Planning and DPH will be able to provide block and lot details on affected properties and thus make those in the new expanded Maher Toxics Zone readily identifiable. Such customers will then be sent immediately to DPH for initial screening.

Ordinance No. 120488 – Bottle-filling stations. Amends the Environment Code to require new/remodeled buildings with drinking fountains to provide bottle-filling stations; requires DBI to do public outreach to inform customers, as well as to keep a log of installations during the first three years of the program, and to report annually to the Board of Supervisors on the total number of such installations, with no revenue source identified to cover DBI costs.

STATUS: Supervisor Chiu's ordinance passed unanimously on June 11, was signed by the Mayor on June 21st, and took legal effect on July 26th. DBI will be responsible for enforcement and notification of contractors about its requirements; and MIS will be tracking all installations as DBI will report annually to the Board of Supervisors on the total number of such installations for the next three years.

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. CALBO updates include:

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.

AB 2114 - Smyth (R)

Swimming Pool Safety Requires a swimming pool, spa, or public wading pool that is subject to safety provisions to have at least two circulation suction outlets per pump, and be separated by a distance of at least three feet in any dimension between the suction outlets, or to be designed with a specified configuration. Requires building permits to require all outlets for a pool, toddler pool, or spa to be

upgraded with an antientrapment covering. Provides updated requirements for pools with a suction outlet.

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

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.

SB 1222 - Leno (D)Solar Energy: Permits Requires that permit fees for rooftop solar energy systems by a city, county, city and county, or charter city not exceed the estimated reasonable cost of providing the service for which the fee is charged, which cannot exceed a specified amount per kilowatt level maintained.

Specifics: This bill would require permit fees for rooftop solar energy systems, as specified, by a city, county, city or county, or charter city to not exceed the estimated reasonable cost of providing the service for which the fee is charged, which cannot exceed \$500 plus \$15 per kilowatt for each kilowatt above 15kW for residential rooftop solar energy systems, and \$1,000 plus \$7 per kilowatt for each kilowatt between 51kW and 250kW, plus \$5 for every kilowatt above 250kW, for commercial rooftop solar energy systems, unless certain conditions are met. Status: Signed by Governor. Effective January 1, 2013.

All of the following also have been signed by the Governor and became effective January 1, 2013.

AB296PavingMaterials- http://leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_296&sess=PREV&house=B&author=skinner

AB 1612 - Admin. Practices - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1612_bill_20120923_chaptered.pdf

AB 1750 - Rainwater Capture Act - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_1701-1750/ab_1750_bill_20120925_chaptered.pdf

AB 2030 - Building Standards - Press Boxes - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_2001-2050/ab_2030_bill_20120919_chaptered.pdf

AB 2041 - Regulations - Adoption - Disability Access - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_2001-2050/ab_2041_bill_20120928_chaptered.pdf

AB 2249 - Solar Water Heating and Efficiency Act - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_2201-2250/ab_2249_bill_20120927_chaptered.pdf

AB 2314 - Real Property: Blight - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_2301-2350/ab_2314_bill_20120827_chaptered.pdf

AB 2697 - Committee on HCD - Omnibus Act - http://leginfo.ca.gov/pub/11-12/bill/asm/ab_2651-2700/ab_2697_bill_20120929_chaptered.pdf

SB 1394 - Dwelling Safety - Carbon Monoxide/Smoke Detectors - http://leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_1394&sess=PREV&house=B&author=lowenthal

SB 1520 - State Gov. - Admin. Efficiency - http://leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_1520&sess=PREV&house=B&author=calderon