

## DBI Legislative Update

BIC October 21, 2015

Per BIC requests for information about legislation affecting the San Francisco Building Code, below please find the most recent Summary from the Board of Supervisors, as well as from Code Advisory Committee meetings and recommendations:

### New Legislation

- No File Number Yet Assigned, but a **new Code Enforcement ordinance** to improve consistency and coordination among multiple City departments is expected to be introduced on Oct. 20<sup>th</sup> by Supervisor Wiener. As drafted, the ordinance would reduce the current 30-day initial response time to cure a Building Department code violation to 15 days. It also requires the Fire Department to institute/issue and inspect for NOVs related to fire-safety matters. DBI has provided the Supervisor's office with its concerns about shortening the 30-day response period, especially in the current economy, where 15 days may not be sufficient to obtain a set of plans required to cure a code violation.
- A separate, related, ordinance also sets up a **new Code Enforcement Fund**, aimed to assist property owners with insufficient resources to apply for short-term/low-interest loans in order to cure Notices of Violation. While the draft ordinance requires DBI to administer this new loan program, we have respectfully requested that the Supervisor place the administration of such a loan program with the Office of Small Business, or with the Mayor's Office of Housing, explaining that DBI staff has neither the expertise nor the experience to administer a loan program. The Supervisor's staff is reviewing this request.
- No File Number Yet Assigned – Supervisor Wiener may introduce on October 20<sup>th</sup> **an ordinance making more explicit the authority of the Building Official to stop all work on a construction project where known violations may be occurring**. The goal is to prevent a project owner from continuing work on different parts of a large project, while agreeing to stop work on one specifically cited element.
- No File Number Yet Assigned – Supervisor Tang may introduce an ordinance on October 20<sup>th</sup> that **expands beyond Building and Planning plan review fees the waiver of all departmental fees related to the annual May Fee Waiver Month for Awning Improvements/Façade Improvements**. Fees waived will thus also include any DPW-related fees, as well as Fire Department fees.
- File Number To Be Assigned – Supervisor Avalos proposed **ordinance to establish a Mandatory Legalization of Illegal Units' program**. STATUS: The Supervisor's staff contacted DBI recently for any departmental input prior to its introduction. A meeting to discuss this draft is being scheduled, and the Mayor's Office also is involved.

### Newly-Effective Legislation

File No. 150559 is DBI's proposed changes in its **Fee Schedule/Tables**, provides an overall 10 percent reduction in DBI fees, and adds additional dollar filters to Major Project Valuations – reflecting the recently completed Controller's Fee Study.

**STATUS:** Passed unanimously on Sept. 8 and **took legal effect on October 19th**. DBI's MIS staff in the process of updating systems for seamless customer interface.

**File No. 150571/Ord. No. 146-15** waives DBI and Planning plan review fees for owners opting to pursue the voluntary legalization of currently illegal in-law units to stimulate more participation.

**STATUS:** Signed by the Mayor on Aug. 6, it **took legal effect on Sept. 3rd**. The Mayor proposed these fee waivers to stimulate owner interest in legalizing in-laws; in the first 16 months of the program we have issued a total of 70 permits, with another 97 under Planning review. DBI's average plan review fees on these permits were roughly \$1,540 each, while Planning's were about \$100 higher than DBI's average – meaning owners taking advantage of the new fee waivers will save roughly \$4,000 if they complete the legalization process. Per Supervisor Wiener's request, **DBI and Planning provided a 1-year Status Report at Land Use on Oct. 5**. **Supervisor Avalos requested a meeting with the Mayor's Office of Housing, and with DBI, to discuss the possibility of using Housing Trust Funds** to help owners pay for unit legalizations – a meeting scheduled for October 21<sup>st</sup>.

File No. 150365/Wiener and File No. 150585/Christensen are expansions of efforts to facilitate owners with additional space within existing buildings **to add dwelling units** in District 8 (Castro) and District 3 (Chinatown-North Beach). These augment the previously enacted Wiener ADU legislation/Ord. No. 30-15, which permits ADUs when an owner has completed a seismic retrofit which, to date, has generate a total of five issued ADU permits. Director Hui and other DBI staff will participate in a workshop tomorrow, Sept. 24th, 6 p.m., Ft. Mason Fire House, with the SF Apartment Association's members to explain the ADU review/approval process. Details/FAQs are posted on the DBI web site.

**STATUS:** Passed on Sept. 8, **and took effect Oct. 6**. DBI already has issued a new Information Sheet, G-23, providing technical guidance on these ADUs, and we are participating in a number of outreach events to brief owners/members of the public on the process. Planning recently published an ADU Handbook to provide owners with prototypes and construction cost estimates, available online and at public counters. Planning estimates there may be more than 45,000 buildings eligible for ADUs. Thus, these ADU ordinances may generate increases in DBI- issued permits/inspections in the coming year.

**REMINDER:** File No. 140954/Ord. No. 30-15 – Supervisor Wiener's ordinance to add in-law units during either a mandatory or voluntary seismic retrofit, so long as the additional unit(s) fits within the existing building envelope. The **Code Advisory Committee's Structural Safety Subcommittee is discussing seismic safety elements involved in ADUs**, a matter of concern to Supervisor Wiener, should this discussion lead to code changes that might be disincentives to owners interested in adding ADUs. We are in discussion with the Supervisor's office about his concerns.

**STATUS:** The Board passed the ordinance unanimously, the Mayor signed it, and it took legal effect on April 27th. DBI Technical Services, with Planning, the Fire Marshal, and the Rent Board, have generated a new Information Sheet, G-23, to provide guidelines to implement this new option to add dwelling units within the existing building envelope. Amends the Planning Code to permit exemptions from dwelling unit density limits when adding dwelling units to existing buildings undergoing seismic retrofitting. To date, while DBI has had roughly 175 counter visits and 125 phone calls about this new

opportunity to add affordable housing units, we have only received 3 permit applications to add such dwelling units with a seismic retrofit.

**File No. 150587** is a new ordinance from Supervisor Wiener requiring owners to **notify all tenants in a building where a demolition or merger of a dwelling unit is proposed**, and requires an affidavit and notification if kitchens, stoves or bathrooms would be removed.

STATUS: This ordinance was discussed, and passed unanimously, at the **Code Advisory Committee on October 14th**. Upon enactment, it will **correct the current situation where tenants are notified in legal unit situations, but do not receive notices if they are in illegal units** -- and thus is another attempt to preserve the City's most affordable housing stock.

File No. 150431 – Ordinance to establish an Emergency Interagency Fire Safety Task Force to review and make recommendations on possible future legislation and/or other solutions to improve fire safety in multi-unit residential and multi-use buildings in the wake of several fatal fires at the beginning of 2015.

STATUS: Passed unanimously and took legal effect on July 17th. The third meeting of this new Fire Safety Task Force occurred on Sept. 22nd, with additional public meetings to come, through November 10, when final recommendations will be sent to the Board for possible legislative action. Task Force members include DBI, the Fire Department, the Department of Public Health and Public Utilities Commission.

Katy Tang Fire Safety Ordinance -- likely DBI enforcement role of owners' responsibilities.

STATUS: Passed unanimously July 28th and took legal effect on Aug. 31st. Amends the San Francisco Fire Code to require owners and homeowners' associations of buildings with five or more residential units to post and provide fire safety information to residents. Owners would be required to post in a conspicuous location, such as in a common area on each floor of the building, written information disclosing the following fire safety features of the building: The location of the fire extinguishers; • The location of the emergency exits; • The location of the building's fire alarm system; • The location of the gas shut-off valve for the building, if any; • Each location in the building protected by fire sprinklers; and • Any other information that would assist a resident to escape or prevent fire. The information would be posted in English, Chinese and Spanish and updated by January 31 of each year. Owners would also be required to review the information with residents signing new leases after the effective date of the ordinance. In addition to the above information, owners would review: • The location of smoke alarms in the resident's unit and how to confirm that they are working; and • The location of any carbon monoxide detector in the unit and when it was last replaced.

Ordinance No. 130119 -- Mandatory Seismic Retrofitting of Soft Story buildings -- 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. It became legally effective June 3, 2013. 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: As of last week, the **number of non-compliant owners fell to 4 out of the 6,733 owners** notified who have not submitted Screening Forms, **including 2 owners in Tier One have not submitted the permit application by 9/15/15, as required** --meaning we have a compliance rate that is close to 100 percent in terms of submitting the required screening forms and meeting Tier One requirements. All non-compliant buildings are now in Code Enforcement, and include posting the building with an Earthquake Warning code enforcement placard, and scheduling of Director's Hearings. We have **5,059 in the retrofit program, which is 75 percent of those notified. We have issued a total of 473 permits, and 274 retrofits have been completed.**

Ordinance No. 182-14 – Vacant Storefront Registration. Per Supervisor Tang's approved legislation, we have a new process requiring vacant storefront/commercial property owners to register these buildings. DBI will work closely with the Mayor's Office of Economic and Workforce Development, as well as with the Small Business Commission, to provide such addresses to small business owners seeking available space.

STATUS: DBI, Planning, DPW, City Attorney and District Attorney **participated in a Public Safety & Neighborhood Services' Committee Hearing on October 15<sup>th</sup>**, where DBI explained its role in enforcing the Vacant Residential and Commercial Buildings' ordinances and where we provided an update on the total number of vacant buildings currently on DBI's lists. Owners are urged to visit [www.sfdbi.org/vacant-or-abandoned-buildings](http://www.sfdbi.org/vacant-or-abandoned-buildings) to obtain essential information to assist them in complying with this new ordinance. DBI Inspectors will not post the first Notice of Violation for those failing to register for the first 270 days in order to provide ample time for owner awareness about this new ordinance, and as an incentive to re-rent the property quickly and thereby eliminate the need to register and pay the annual registration fee.

### **Coming Legislation**

File No. – Not yet assigned. **Supervisor Tang's Proposed Mandatory Disabled Access Improvements' ordinance** – Amends the Building Code to require any existing building with a place of public accommodation either to have all primary entries and path of travel into the building accessible by person with disabilities or receive from the City a determination of equivalent facilitation, technical infeasibility, or unreasonable hardship; establishes a Disability Access Compliance Unit with DBI; and established a fee to offset the costs of the disability access improvement. Mirrors the compliance timeline structure of the successful Mandatory Soft Story Program wherein property owners will be put on a sliding compliance timeline dependent on their type of place of accommodation and have a limited timeframe to meet the accessibility requirements.

STATUS: **Supervisor Tang attended the October 14<sup>th</sup> CAC meeting** and explained the objectives of her ordinance, as well as responded to CAC questions. **The Supervisor is continuing to make refinements and another version of the ordinance is forthcoming for further CAC review.**

**Ord. No. 53-15 City Housing Balance and Reporting** – Per Supervisor Kim, a Land Use Hearing was held on October 19<sup>th</sup> to examine where the City is in terms of adding housing units, especially those qualifying as “affordable” units. **DBI staff reported specifically on the numbers of Residential Hotel units either withdrawn or added between April 2014 and September 2015.**

File No. – Not yet assigned. Supervisor Tang, per a July 22nd hearing at Budget & Finance, has asked DBI to be part of **a multi-departmental internal assessment to stipulate ways to expedite permit reviews/approvals related to restaurant openings.** Staff will meet internally to address this request, with recommendations due to Sup. Tang by January 2016. DBI Staff is meeting internally to develop its response.

**File No. 141118, Building Façade Inspection and Maintenance.** Proposed by the Mayor’s Office of Earthquake Safety, this amends the building code to require that facades of buildings with five or more stories be inspected periodically by a qualified engineer or architect, with inspection reports submitted to DBI according to an inspection and reporting schedule. Maintenance of facades to be conducted in accordance with an Administrative Bulletin developed and published by DBI and based upon a national standard. The ordinance also establishes a fee to cover DBI costs for reviews and evaluations. We continue to work with the Mayor’s Director of Earthquake Safety on this draft.

STATUS: A draft ordinance from the Mayor’s Office of Earthquake Safety is **expected to come to the Code Advisory Committee by the end of this year**, where it will be scheduled for review and recommendation to the BIC among other recently-enacted DBI legislative priorities.

File No. – Not yet assigned. **Supervisor Farrell’s proposed Neighborhood Noticing Ordinance** – an effort to consolidate and centralize through 3-1-1 the City’s multiple public notifications for construction and infrastructure repair work, public health and safety services/facilities, environment and transportation.

STATUS: Not yet scheduled for Committee Hearing, but expected in the next few weeks. This will be a two-phased effort, beginning with the creation of a website where the public may find details about City projects in a specific supervisorial district/neighborhood, and the second phase creation of a system where the City sends via e-mail/electronic means detailed information to those opting in to request such notifications.

### **Older Legislation**

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.

STATUS: As of last week DBI had received more than 3,200 queries about this now 16-month-old voluntary program; received and is reviewing more than 200 applications for permits. We have issued 66 permits, with an additional 10 awaiting owner payment/pickup. There are another 92 under review at Planning, 52 under DBI Review. The second Six-Month Report by Planning and DBI has been

conveyed to the Board – and the Mayor’s now-passed fee waiver ordinance –noted earlier—is intended to stimulate more owner participation in this voluntary program. DBI and Planning also briefed the Land Use Committee on the status of this program on October 5<sup>th</sup>. Planning is averaging 3.5 months in its reviews/sign-offs of these permits, while DBI is averaging just over two months. The Fire Chief clarified sprinkling requirements, and Information Sheet No. FS-05 with specific guidelines was signed by the Building Director and the Fire Marshal on March 13th. DBI also has posted on its web site a new Information Sheet, G-17, signed by the Building Director, the Planning Director, the Fire Marshal and the Rent Board Director, which provides detailed guidelines for any owner interested in legalizing a unit. We also are adding details from the Assessor to G-17. DBI and Planning will continue to report to the Board these unit legalizations every six months for the first three years of the ordinance. After the program’s initial 3-years, Planning will incorporate such data into its annual Housing Report, and also is required to maintain a Master List of all legalizations.

**File No. 140120 – Earthquake Performance Evaluation of Private School Structures.** Amends the building code to require private elementary and secondary schools obtain an evaluation by a licensed structural engineer for performance during a future earthquake.

STATUS: This took legal effect on Nov.1<sup>st</sup>, 2014. Within one year of this effective date – **by Nov. 1, 2015 – the building’s owner must submit to DBI an evaluation scope document.** No later than three years after the effective date – Nov. 1, 2017—the owner must submit an Evaluation Report to DBI, per requirements provided within the Administrative Bulletin that is to be developed and published by the Department. Once seismic strengthening plans are prepared, approved and implemented, any buildings found in violation of having an unsafe building are subject to standard code enforcement reviews and requirements –including failure to submit the Evaluation Scope or Evaluation Report documents within set timelines. **To date, DBI has received three Evaluation Reports** from the Mayor’s Earthquake Safety Implementation Program, which are now under review. **Staff will be meeting to discuss code enforcement steps for owners who miss the Nov. 1st submittal of scoping document deadline, given the total of 120 private schools covered by this program.**

**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 Assembly. Key State Deadlines include: October 11 – Last day for Governor to sign/veto bills passed.

Current State legislation to note includes:

Resolution, File No. 150594/Enactment No. 0210-15, supported unanimously the DBI and Planning position to **oppose State Assembly Bill, AB 57**, which weakens local control of permitting of Cell Phone/Telecom towers. Co-sponsors of this local ordinance are Wiener, Tang, Christensen and Farrell. The Resolution took effect on July 20th. **Unfortunately, the Governor did sign this bill into law.**

**AB 1236 – The Governor did sign this bill into law.** A proposed bill by David Chiu that requires all jurisdictions to pass an ordinance that expedites the permit review/approval process to install electric vehicle charging stations, and which does **include suggested DBI language making clear the Building Official retains discretionary authority to address life-safety priorities ahead of this bill’s targeted**

**priorities.** As the aide acknowledged, San Francisco is the 'gold standard' already in facilitating the installation of such charging stations, and the intent of this bill is to spread that model state-wide. The bill faces opposition from CALBO and from the California State Association of Counties.

**AB 428** – A bill to provide a 30 percent property tax credit to building owners performing seismic retrofits of at-risk buildings. San Francisco, Oakland, Berkeley, Los Angeles and Santa Monica are all supporters of this State legislation. **Governor Brown vetoed this bill. The LA City Council, however, did pass its mandatory wood-frame soft story building ordinance, as well as at-risk concrete buildings. LA is still debating tenant pass-throughs to help building owners cover the capital costs of these retrofits.**

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