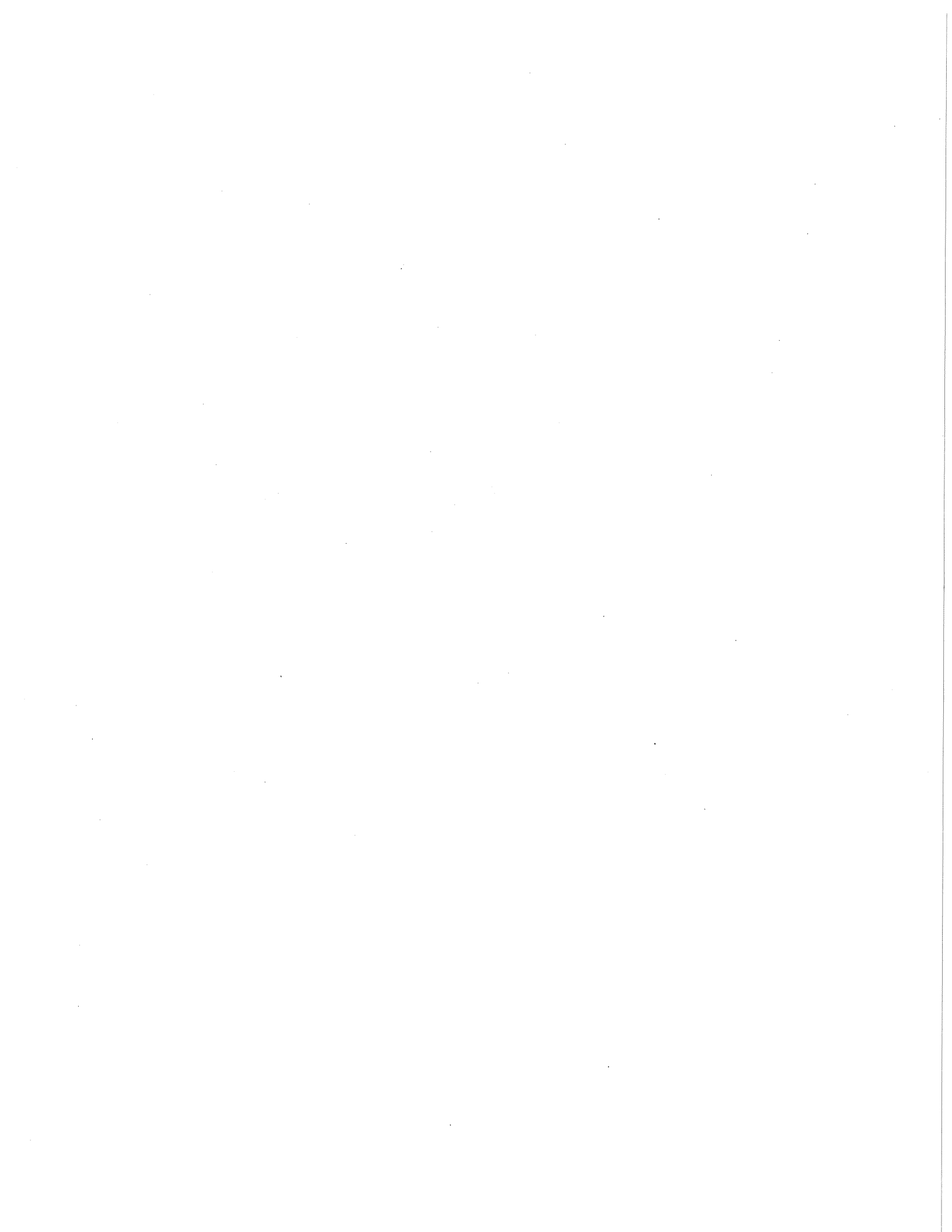


***BIC Meeting of
October 24, 2012***

Agenda Item #8b



DBI Legislative Tracker
October 24, 2012 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. 120959 -- Permit Extension/Expiration Code & fee amendments, and proposed new premium 3R Report Service – Codifies for Board approval amendments in the building code covering permit extensions and expirations, while updating fee tables. Also proposes a new fee for premium 3R Report services, similar to premium plan check, where customers obtain accelerated service in return for higher fee. BIC approved the ordinance on March 14, 2012, but it was misplaced and thus delayed prior to City Attorney drafting the required legislative language for introduction and hearing.

STATUS: The ordinance is on Land Use's 30-day calendar and it is expected to be heard in Committee in early/mid-November.

Ordinance No. 120299 – Extending restrictions of the Apartment Conversion Ordinance to business-sponsored short-term occupancies/enforcement by DBI. Proposed by Supervisor Chiu, this ordinance amends the Administrative Code, specifically Chapter 41A, in an effort to reduce abuses by corporate leases where rental units are provided for tourist uses of less than 30 days, instead of longer-term housing. Even though DBI has received very few complaints over the years related to this legislation, DBI is the enforcement agency and would investigate complaints, issue notices of violation, hold Directors' Hearings, and levy penalties as specified in the proposed legislation – potentially increasingly significantly DBI's administrative burden to enforce compliance. Third party law suits also may increase as another enforcement mechanism due to provisions in the ordinance.

STATUS: The ordinance's first reading passed unanimously at the Board's October 16th meeting, following unanimous approval by the Land Use Committee. Final passage is expected on Oct. 23rd, and with the Mayor's signature that same week this ordinance could take legal effect during Thanksgiving Week.

120191 – Redefine Efficiency Units. Proposed by Supervisor Wiener, the ordinance amends the Building Code to reduce the square footage requirement for Efficiency Dwelling units from the existing 220 square feet to 150 square feet of living space, as permitted by State code, to help address increasing demand for such units. Both the Code Advisory Committee and the BIC have approved the legislation.

STATUS: While the amended legislation includes CAC language to include 100 square feet of floor area for each occupant in excess of two, Supervisor Wiener has amended the legislation to include a "cap" on the total number of such units to be permitted – legislation that will be heard again in Land Use in mid-November.

Ordinance No. 121018 – Amend Housing Code to include Telephone Jacks and Grab Bars. Sponsors: Mar, Olague, Chiu, Campos, Kim and Avalos. Amends the San Francisco Housing Code by: 1) amending Section 206 to add Section 1002 to the list of retroactive provisions; 2) amending Section 505 to require grab bars in hotel common-use water closets and bathing facilities; 3) amending Section 1002 to include as a substandard housing condition the failure to provide a usable telephone jack and telephone wiring as required by the California Civil Code; and 4) making environmental findings, legislative findings, and findings pursuant to California Health and Safety Code Section 17958.5.

STATUS: Assigned on Oct. 16, 2012 under 30-DAY RULE to the Land Use and Economic Development Committee and thus expected in Committee in mid-November.

Ordinance No. 120318 – Additional Penalties for Foreclosed Properties. Proposed by Supervisor Cohen, this legislation amends the Police Code to include “aggravating factors” in foreclosed properties that may be declared public nuisances. It also affects building, electrical, plumbing, mechanical and housing codes by stipulating that property owners of ten or more foreclosed properties shall be liable for an increased penalty of up to three times the amount of any civil penalty assessed by a court of competent jurisdiction for maintaining a property in a manner that constitutes a public nuisance.

STATUS: Following unanimous approval on Sept. 17th at Land Use, the Legislation received unanimous approval at both Board readings on Sept. 25th and October 2nd. With the Mayor’s signature on Oct. 9th, it will take legal effect on Nov. 6th.

Ordinance No. 111047 – Obligations of landlords and small business tenants for disability access improvements. Amends the Administrative Code and Campaign and Governmental Conduct Code to require commercial landlords leasing property to small businesses for use as public accommodations to be in compliance with applicable State and Federal disability access laws, or to disclose to tenants that the property may not meet all applicable standards. It also requires that owners inform small business tenants of potential legal and financial liabilities for failure to comply, and requires the Small Business Commission, by Jan. 1, 2013, to develop/distribute an access information notice in multiple languages regarding disability access laws that may apply to San Francisco businesses. It also requires the City to prioritize building permit applications for compliance work for spaces used by small businesses – which DBI does currently upon request.

STATUS: The ordinance passed unanimously its final reading at the Board’s Sept. 4th meeting and was signed by the Mayor on Sept. 7th. It took legal effect on Oct. 8th.

Ordinance No. 120717 – On-site water reuse for commercial, multi-family and mixed-use developments. Introduced by Supervisor Chiu to establish permitting requirements for the voluntary use of alternate water sources for non-potable applications, as well as to set permit and annual fees to be collected by the Department of Public Health.

STATUS: Passed unanimously by the Board of Supervisors on Sept. 11th and expected to be signed by the Mayor. It took legal effect on October. 15th. May delay issuance of building permit for those opting to participate; DBI role limited to verifying code-compliant installations.

Ordinance No. 120488 – Bottle-filling stations. Amends Environment Code to require new and remodeled buildings with drinking fountains to provide bottle filling stations; requires Director of 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 staff attended the September 12th CAC meeting, provided details, and noted CAC suggestions, including amendments to define precisely what triggers installation, and to remove any DBI administrative burden in data collection. CAC is awaiting a revised draft of the legislation and may have it again on its November Agenda.

Potential Building Code Amendment to Section 1205.1 of the California Building Code re: regulation of exterior glazed openings/natural light. An Information Sheet with technical details has been drafted by DBI's Technical Services.

STATUS: This item was heard by the Code Advisory Committee at its August 8th meeting, where it unanimously referred the matter to the Green Building subcommittee to resolve the issue of 'borrowed light,' possibly by tying it to an LEED standard. The item is expected to return to the full CAC in November.

Ordinance No. 120523 – Transit Impact Development Fee increases and technical updates. Clarifies the process where a project was subject to TIDF but the building/site permit was issued prior to July 1, 2010. While SFMTA continues to determine fee amount due, fee payments would be made to DBI's Development Fee Collection Unit and any request for review of the fee amount would follow Section 107A of the Building Code and Article 4 Planning Code.

STATUS: While Land Use passed the ordinance on Sept. 10th and forwarded it to the full Board, Supervisor Wiener requested, and received, a continuance of this legislation until November 20th. DBI role limited to the collection of any approved increases by the Development Fee Collection Unit per code.

State Legislation In an effort to be apprised of, and involved in, proposed State legislation that may affect the Department, we also are analyzing and monitoring a number of currently proposed bills – some of which are now on the Governor's desk for signature. The bills include:

Senate Bill 1186 -- The California Americans with Disability Act (ADA) Reform Bill. This bill prohibits an attorney or any person from issuing a demand for money to a building owner or tenant for a violation of a construction-related accessibility standard, among other requirements.

STATUS: This bill passed with strong support from two-thirds of the Legislature, from CALBO, the League of California Cities and BOMA – and was signed by the Governor on Sept. 20th, and took immediate legal effect. It prohibits pre-litigation 'demands for money' by attorneys; puts into

place new provisions to prevent the 'stacking' of multiple claims to increase statutory damages; reduces statutory damages and provides litigation protections for defendants who correct violations; and it establishes priorities for the California Commission on Disabled Accessibility that promote and facilitate access compliance. It also provides that small businesses with 25 or fewer employees that have not had a Certified Access Specialist (CASp) inspection will have 30 days to fix a violation and can see their statutory damages reduced from \$4,000 to \$2,000; and it provides for local cities and counties to expand the CASp program to help bring local businesses into ADA compliance.

AB 1878 – Requires a notification process where owner is to document needed repairs for ADA improvements in a rebuttal to accusations.

STATUS: CALBO's position is "under review," and the bill has been referred to the Judiciary Committee.

AB 1879 -- Requires the State Architect to prepare a Report containing all federal and State disability access regulations, and to note any State disability access regulations in conflict with existing federal disability access regulations. Report to be given to Legislature and Governor by Jan. 1, 2014.

STATUS: CALBO position is "Support." Referred to Committee on Business, Professions & Consumer Protection.

AB 1994 – Requires every county to establish a program whereby accessibility complaints are filed with Planning Departments (instead of Building Departments).

STATUS: County Building Officials, and CALBO, Oppose this bill. Awaiting Hearing at Assembly Judiciary Committee.

AB 1610 – Requires an aggrieved party to provide specified notice to property owners, agent or other responsible party where alleged accessibility violation occurred. Similar to **AB 1878** and **AB 2325**, and to **Senate Bill 1163**, which also require owner notification and owner opportunity to correct/respond within 30 days.

STATUS: Awaiting Hearing at Assembly Judiciary Committee for Hearing. CALBO position is still "Under Review."

Foreclosure Law (SB 1137) – took immediate effect upon the Governor's signature on July 8, 2008, and is due to expire January 1, 2013 unless the Legislature opts to extend it. CALBO supported its property maintenance/code enforcement requirements, and indicates it would likely support extension of the law. The law was enacted to reduce significantly the number of foreclosures in California; to provide increased protection to those renting in buildings eventually involved in foreclosures; and to ensure that foreclosed properties do not become a source of blight to communities by defining explicitly how owners are to maintain vacant residential property. It also permits local government to impose fines up to \$1,000 per day for maintenance violations (though such fines may not be imposed under both this law and a local ordinance — such as our Vacant Building Ordinance -- already in effect).

There are three bills affecting this specific code section (Civil Code 2929.3):

AB 1547 – Extends the law indefinitely.

STATUS: CALBO position is “Support.” Referred to Banking & Finance.

AB 1557 – extends the law to 2018, i.e. five more years.

STATUS: CALBO position is “Support.” Referred to Banking & Finance.

SB 708 – extends the law to 2018, i.e. companion bill to AB 1557.

STATUS: First Reading Jan. 23, 2012 and Held at Senate Desk

AB 801 – Deletes certain references to illegal dumping enforcement officers in existing law, and authorizes a code enforcement officer to exercise the powers of arrest of a peace officer in manner specified in existing law, i.e., complete/pass exam for a training course on the exercise of such powers, and to the extent authorized by an MOU with the Police Chief/Sheriff.

STATUS: CALBO position is “Watch.” Referred to Senate Committee on Public Safety.

AB 1801 – Prohibits a local agency from charging a fee for permits for a renewable energy system that exceeds the cost of issuing the permit; prohibits fee calculation by utilizing the valuation of the renewable energy system; and makes oversight of this issue a statewide concern.

STATUS: CALBO position is “Oppose.” Awaiting review by Committee on Local Government.

AB 2135 and SB 1222 – Authorize building standards for solar distribution generation technologies on residential and commercial properties. Requires a model ordinance and guidelines to be provided to assist local authorities. Those who agree to post the information on their web sites also to be eligible for State grants.

STATUS: CALBO position is “Watch.” Re-referred to Assembly Business, Professional and Consumer Protection Committee on April 18, 2012.

AB 2314 and SB 1472 – Repeals deletion clause for provisions charging a civil fine for failure to maintain a vacant foreclosed residential real property; provides time frame for housing or building department to issue building code violation to a new owner after taking title to the property; and authorizes a court to require the owner of a substandard property to pay all unrecovered costs associated with a receivership in addition to any other remedy authorized by law.

STATUS: CALBO position is “Support.” Do pass from Assembly Committee on Judiciary to Committee on Housing and Community Development on April 17, 2012, and referred to Senate Committee on Judiciary.

AB 2644 – Requires the Building Standards Commission to adopt standards for the construction, installation and alteration of electric vehicle charging stations for parking spaces at single-family residences.

STATUS: CALBO position is “Oppose.” Referred to Assembly Community Development Committee on March 19, 2012.

AB 1959 – Green Building. Requires indoor air standards for non-residential buildings.

STATUS: CALBO position is “Oppose.” Referred to Assembly Business, Professional and Consumer Protection.

AB 2117 – Storm water Discharge Requirements. Prohibits the implementation of new standards more stringent than provided in the Federal Water Pollution Control Act, and requires the State Water Board to produce a statewide storm water plan if the Federal EPA provides the funding for the development of this plan.

STATUS: CALBO position is “Support.” Referred to the Environmental Safety Committee.

SB 1171 – Amends existing law directing Legislative Counsel to advise Legislature from time to time as to legislation necessary to maintain codes.

STATUS: CALBO position is “Watch.” Referred to Senate Committee on Judiciary on March 1, 2012.

SB 1222 – Requires that permit fees for rooftop solar energy systems by a city, county or city and county to not exceed estimated reasonable cost of providing service for which the fee is charged; and requires those public entities to submit a report to the State Energy Conservation and Development Commission.

STATUS: CALBO position is “Oppose.” Author (Leno) amendments re-referred to Senate Committee on Rules and re-referred to Committee on Governance and Finance on April 9, 2012.

SB 1394 – Requires owner of rented/leased single or multiple-dwelling complex to ensure smoke detectors/carbon monoxide detectors are operational when tenant takes possession and device placements meets specified standards; relates to building inspection requirements; and

requires installation of carbon monoxide devices in all existing hotel and motel dwelling units by specified date.

STATUS: CALBO position is "Under Review." Amended and referred with Do Pass to Committee on Appropriations.

Senate Continuing Resolution (SCR) 57 – Auto shutoff of gas and electricity. Urges the State Architect to hold hearings to determine if building codes should be amended to require automatic shutoff devices at the time of initial construction or following a major renovation, and triggered at the time of an earthquake. **STATUS:** CALBO position is "Under Review." Referred to the Committee on Transportation and Housing.

