

File No. 160253

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date April 11, 2016

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 700 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vacancy Notice |
| <input type="checkbox"/> | <input type="checkbox"/> | Information Sheet |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

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Completed by: Andrea Ausberry

Date April 7, 2016

Completed by: _____

Date _____

1 [Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit
2 Ordinance]

3 **Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two**
4 **prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit**
5 **for The Humidor's new location at One Embarcadero Center: the prohibitions on**
6 **issuing the permit in a Supervisorial District with 45 or more such permits, and on**
7 **issuing the permit to a tobacco shop.**

8 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
9 **Additions to Codes** are in *single-underline italics Times New Roman font*.
10 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
11 **Board amendment additions** are in double-underlined Arial font.
12 **Board amendment deletions** are in ~~strikethrough Arial font~~.
13 **Asterisks (* * * *)** indicate the omission of unchanged Code
14 subsections or parts of tables.

15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. General Background and Findings.

17 (a) The Humidor was founded in Santa Rosa in the mid-1980s as a family business
18 by Baram Bakhshi, Javid Bakhshi, Jamshid Bakhshi, and Habid Bakhshi. The Humidor moved
19 to San Francisco in 1990 and has occupied several different locations in San Francisco. It
20 has been in operation in San Francisco (with no breaks in operation of more than two years)
21 for a 26 years. In 2003, The Humidor moved to One Embarcadero Center, into a space that
22 had previously been operated as a Tobacco Shop. In 2006, The Humidor moved into a new
23 location at 275 Battery Street. It has been at that location from 2006 to 2016. During the
24 entirety of its operations in San Francisco, The Humidor has been a Tobacco Shop operating
25 with a tobacco sales permit.

1 (b) The Humidor has been nominated for inclusion on the Legacy Business Registry
2 as a longstanding, community serving business and a valuable cultural asset of the City.

3 (c) In late 2015, the building at 275 Battery Street was sold to new owners who
4 have refused to renew The Humidor's lease. The Humidor, after negotiations with a new
5 landlord, is entering into a lease for a space at One Embarcadero Center, which is not the
6 space it occupied there from 2003 to 2006.

7 (d) Section 19H.5 of the Health Code caps the number of establishments with
8 tobacco sales permits in every supervisorial district at 45. Further, Section 19H.4(f)(5) of the
9 Health Code states that no new tobacco sales permit shall be issued in any supervisorial
10 district that has 45 or more establishments with tobacco sales permits. The supervisorial
11 district in which The Humidor intends to be located, at One Embarcadero Center, is the same
12 supervisorial district where The Humidor has been located, at 275 Battery Street, and the
13 district has 45 or more establishments with tobacco sales permits.

14 (e) Section 19H.4(f)(7) of the Health Code states that no new permits shall be
15 issued for the operation of a Tobacco Shop. The Humidor is a Tobacco Shop.

16 (f) Based on the facts as stated in this Section 1, reasonable grounds support
17 granting The Humidor an exception to Sections 19H.4(f)(5) and 19H.4(f)(7) of the Health
18 Code, and Section 19H.5 to the extent that that section reiterates the ban on issuance of more
19 than 45 tobacco sales permits in a supervisorial district. The Humidor is a longstanding
20 holder of a tobacco sales permit. Its new location, at One Embarcadero Street, is less than
21 300 feet away from its previous location at 275 Battery Street, and is in the same supervisorial
22 district. Issuing a tobacco sales permit to The Humidor at its new location will not change the
23 number of such permits in that supervisorial district that existed when The Humidor had its
24 tobacco sales permit at its previous location on Battery Street. Further, the space occupied
25 by The Humidor at 275 Battery Street is approximately 970 square feet, while the space that

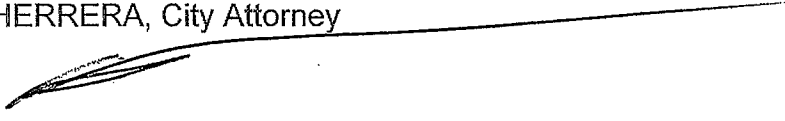
1 Humidor plans to occupy at One Embarcadero Center is approximately 730 square feet.
2 Accordingly, The Humidor will be devoting fewer square feet to tobacco product sales at One
3 Embarcadero Center than at its previous location at 275 Battery Street.

4 Section 2. Exemption of The Humidor From Certain Requirements of Health Code
5 Sections 19H.4 and 19H.5.

6 For the reasons stated in Section 1 of this ordinance, The Humidor, under its current
7 ownership, is hereby exempted from the requirements of Sections 19H.4(f)(5) and 19H.4(f)(7)
8 of the Health Code, and Section 19H.5 to the extent that that section reiterates the ban on
9 issuance of more than 45 tobacco sales permits in a supervisorial district. In providing for this
10 exemption, it is intended that the aforementioned provisions not serve as a barrier to The
11 Humidor's obtaining a tobacco sales permit at its new location at One Embarcadero Center.
12 This ordinance is intended to apply solely to that location.

13 Section 3. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: 
21 ALEETA M. VAN RUNKLE
22 Deputy City Attorney

23 n:\leganas2016\1600549\01089080.docx

LEGISLATIVE DIGEST

[Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance]

Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit in a Supervisorial District with 45 or more such permits, and on issuing the permit to a tobacco shop.

Existing Law

Section 19H.5 of the Health Code caps the number of establishments with tobacco sales permits in every supervisorial district at 45. Further, Section 19H.4(f)(5) of the Health Code states that no new tobacco sales permit shall be issued in any supervisorial district that has 45 or more establishments with tobacco sales permits.

Section 19H.4(f)(7) of the Health Code states that no new permits shall be issued for the operation of a Tobacco Shop.

Amendments to Current Law

This proposed ordinance will allow an exception to the requirements in Sections 19H.4 and 19H.5 for The Humidor. The Humidor is a longstanding holder of a tobacco sales permit. Its new location, at One Embarcadero Street, is less than 300 feet away from its previous location at 275 Battery Street, and is in the same supervisorial district. Issuing a tobacco sales permit to The Humidor at its new location will not change the number of such permits in that supervisorial district that existed when The Humidor held a tobacco sales permit at its previous location on Battery Street. Further, the space occupied by The Humidor at 275 Battery St. is approximately 970 square feet, while the space that The Humidor plans to occupy at One Embarcadero Center is approximately 730 square feet. Accordingly, The Humidor will be devoting fewer square feet to tobacco product sales at One Embarcadero Center than at its previous location at 275 Battery Street.

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BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Rm 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Barbara Garcia, Director, Department of Public Health
John Rahaim, Director, Planning Department
Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector
Regina Dick-Endrizzi, Director, Office of Small Business

FROM: Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services Committee

DATE: March 21, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on March 15, 2016:

File No. 160253

Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit in a Supervisorial District with 45 or more such permits, and on issuing the permit to a tobacco shop.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Greg Wagner, Department of Public Health
Colleen Chawla, Department of Public Health
Scott Sanchez, Planning Department
Sarah Jones, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Jeanie Poling, Planning Department
Amanda Kahn Fried, Office of the Treasurer and Tax Collector

Member, Board of Supervisors
District 10



City and County of San Francisco

ORIG: COB

LClerk, Leg
Dep

MALIA COHEN
馬莉亞郭嫻

DATE: April 5, 2016
TO: Angela Calvillo
Clerk of the Board of Supervisors
FROM: Supervisor Malia Cohen
RE: Land Use and Transportation Committee
COMMITTEE REPORT

BY: [Signature]
2016 APR -6 AM 11:59
BOARD OF SUPERVISORS
SAN FRANCISCO, CA

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on April 12 2016, as a Committee Report:

160253 Health Code - Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance

Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance on the issuance of such a permit for The Humidor's new location at One Embarcadero Center: the prohibitions on issuing the permit in a Supervisorial District with 45 or more such permits, and on issuing the permit to a tobacco shop.

This matter will be heard in the Land Use and Transportation Committee Regular Meeting on April 11, 2016, at 1:30 p.m.

Sincerely,

A handwritten signature in cursive script that reads "Malia".

Malia Cohen
Member, Board of Supervisors

President, District 5
BOARD of SUPERVISORS



BOS-11, CoB, PSNS
LUI, Leg Dup
Dup City atty
Mayor
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

London Breed

PRESIDENTIAL ACTION

Date: April 4, 2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____ (Primary Sponsor)

Title. _____

Transferring (Board Rule No 3.3)

File No. 160253 Peskin
(Primary Sponsor)

Title. Ordinance exempting The Humidor, formerly located at 275 Battery Street, from two prohibitions in the Tobacco Sales Permit Ordinance

From: Public Safety & Neighborhood Services Committee

To: Land Use & Transportation Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

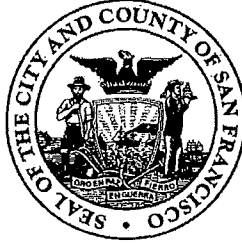
For: _____ Meeting
(Date) (Committee)

London Breed

London Breed, President
Board of Supervisors

APR 11 2016
10:17 AM - 5 PM 3 LG
BOARD OF SUPERVISORS
SAN FRANCISCO, CA 94102

President, District 5
BOARD of SUPERVISORS



RECEIVED
3/21/2016 @ 4:59pm
on BOS-11, COB
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1 Dr. Carlton B. Goodlett Place, Room 244 PSNS
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227
Mayor's office

London Breed

PRESIDENTIAL ACTION

Date: March 21, 2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 160253 Peskin
(Primary Sponsor)

Title. Exempting The Humidor from Certain Provisions of the Tobacco Sales Permit Ordinance

Transferring (Board Rule No 3.3)

File No. _____
(Primary Sponsor)

Title. _____

From: _____ Committee

To: _____ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

London Breed, President
Board of Supervisors

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Reactivate File No.
- 10. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

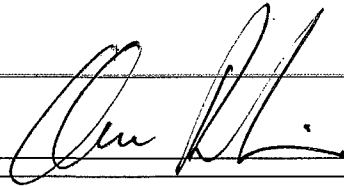
Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Subject:

The text is listed below or attached:

Signature of Sponsoring Supervisor: _____



For Clerk's Use Only: