

LEGISLATIVE DIGEST

[Building Code - Expanded Compliance Control and Consumer Protections Where History of Significant Violations]

Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

The Building Code does not contain mandatory provisions for tracking a project, individual, agent, or entity's history of involvement in permits with significant violations, nor any expanded compliance control provisions for projects, individuals, agents, or entities found to have a history of significant violations.

Amendments to Current Law

The Proposed Legislation would require that Department of Building Inspection ("DBI") inspectors provide a report to their Senior and Chief Inspector each time the inspector issues a Notice of Violation involving a significant violation of the Building Code. The significant violations that trigger a report include misrepresentation of conditions at the project site; structural work or demolition without or beyond the scope of a permit; other work without or beyond the scope of a building permit that endangers health and safety; and any other violations determined by the inspector as substantial non-compliance with City codes. The report shall contain a description of the violation and identify all individuals, agents, or other entities associated with the permit or project in DBI's permit tracking system.

The Proposed Legislation mandates the collection of these reports in a Compliance Control Tracking File, which must be reviewed by the DBI's Inspection Services Division on a monthly basis to determine if any project, individual, agent, or entity has been identified on three or more reports in the last 18 months. Any such projects, individuals, agents, or entities shall be candidates for placement on the Expanded Compliance Control List ("List"). Additionally, the Chief Inspector may place a candidate on the List for any egregious violation(s) even if the candidate does not have three separate violations within an 18-month period.

To ensure fair and efficient use of Expanded Compliance Control resources, the Proposed Legislation proscribes a detailed administrative process before placing a candidate on the List. For each candidate, the Chief Inspector must draft a summary report describing the violation(s) and any exculpatory evidence relevant to whether the candidate should be placed on the List. The summary report would then be evaluated by the Deputy Director who may

seek additional information from DBI staff and/or the candidate and must determine whether placement on the List is appropriate. The Deputy Director must support that determination with written findings. The Deputy Director's determination would then be reviewed by the Director, who shall make the final listing determination and issue written findings in support of that determination. The Director's determination and findings shall be sent to the candidate and placed on DBI's website. Any person may appeal the Director's determination to place or not place a candidate on the List by filing an appeal to the Building Inspection Commission within 15 days of the posting of the determination on DBI's website. The List will be available on DBI's website and provided to the Building Inspection Commission on a quarterly basis.

Projects, individuals, agents, or entities placed on the List ("listees") shall remain on the List and subject to Expanded Compliance Control measures for five years. Any subsequent violation(s) by a listee restarts the five-year period.

The Proposed Legislation mandates DBI perform the following Expanded Compliance Control measures for each listee: provide the Director's final determination and findings to any applicable licensing board or regulatory agency (if any); require all new or existing permits or addenda submitted by or containing reference to a listee undergo Expanded Compliance Control by senior Plan Review Services staff and multi-station review at intake by Planning, Fire, and Public Works in addition to DBI; notify the listee and all other parties associated with the listee on a permit application or addenda of the Expanded Compliance Control requirements; require site inspection by all applicable reviewing departments prior to permit issuance for projects associated with the listee; dedicate a Senior Inspector to respond to complaints and conduct all inspections regarding the listee; and, if warranted, consult with City Attorney about any other enforcement options.

The Proposed Legislation would also require training for all DBI permit review staff on how to identify signs of potential abuse of the permit process and misrepresentation by applicants and mandate escalation of permits indicating significant issues to senior DBI staff and Planning Department.

Background Information

Significant violations of the Building Code threaten public health and safety; require DBI time and resources to identify, enforce, and abate; and often result in costly litigation and delay in repairing or constructing much needed housing throughout the City. For all parties—property owners/consumers, residents, DBI, and the public at large—it is safer, more cost-effective and efficient to adopt expanded compliance control provisions that ensure compliance throughout the permit review process, rather than address violations after the fact through enforcement proceedings.

A substantial portion of the most significant Building Code violations involve repeat actors—a small handful of projects, individuals, agents, and other entities. DBI may apply informal compliance control and permit review for such repeat actors that warrant additional scrutiny

due to known abuses of the permit process, but there is no codified process that identifies criteria, tracks candidates, or details mandatory compliance control measures for such entities.

The Proposed Legislation addresses this need by: codifying a reporting process to track significant violations and all parties associated with such violations; mandating monthly review of tracking reports to identify candidates for expanded compliance control measures; creating an administrative process to review and appeal determinations regarding placement of candidates on the expanded compliance control list; detailing what expanded compliance control measures are required; and mandating training and issue escalation for permit review staff.

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