

FILE NO. 160143

Petitions and Communications received from February 22, 2016, through February 29, 2016, for reference by the President to Committee considering related matters, or to be ordered filed by the Clerk on March 8, 2016.

Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information will not be redacted.

From Polk District Merchants Association, regarding proposed formula retail controls legislation. File No. 160102. Copy: Each Supervisor. (1)

From San Francisco African American Chamber of Commerce, regarding competitive solicitation process. Copy: Each Supervisor. (2)

From Human Rights Commission, submitting annual Fair Chance Ordinance Report. Copy: Each Supervisor. (3)

From the Office of the Controller, submitting City Services Auditor's Summary of Implementation Status of Recommendations Followed Up on in FY2015-2016, First and Second Quarter report. Copy: Each Supervisor. (4)

From West Area CPUC, regarding notification of filing for various Verizon Wireless locations. Copy: Each Supervisor. (5)

From Mayor Lee, regarding Inclusionary Housing. File No. 151274. Copy: Each Supervisor. (6)

From Mike Ege, regarding Inclusionary Housing. File Nos. 151274, 160137. Copy: Each Supervisor. (7)

From Cory Hunt, regarding application for Liquor License for 1092 Post Street, 1104 Polk Street. File No. 160184. (8)

From concerned citizens, submitting signatures for a petition regarding the San Francisco Municipal Transportation Agency. 4,183rd signer. Copy: Each Supervisor. (9)

From State Fish and Game Commission, submitting notice of proposed emergency action regarding special order relating to incidental take of tricolored blackbird during candidacy period. Copy: Each Supervisor. (10)

From John Fitch, regarding citations issued on MUNI. Copy: Each Supervisor. (11)

From Anastasia Glikshtern, regarding Park, Recreation and Open Space Fund. File No. 150940. Copy: Each Supervisor. (12)

From concerned citizens, regarding Proposed Rule for Dog Management in the Golden Gate National Recreation Area. 2 letters. Copy: Each Supervisor. (13)

From FairVote, regarding Open Source Voting System project. 5 letters. Copy: Each Supervisor. (14)

From concerned citizens, regarding proposed legislation for the Affordable Housing Bonus Program. 8 letters. File No. 150969. Copy Each Supervisor. (15)

From National Association of Tobacco Outlets, regarding proposed legislation to prohibit sale of tobacco products to persons under age 21. File No. 151179. Copy: Each Supervisor. (16)

From Dr. Russell Carpenter, regarding Municipal Railway. Copy: Each Supervisor. (17)

From National Park Service, regarding Proposed Rule for Dog Management in the Golden Gate National Recreation Area (GGNRA). Copy: Each Supervisor. (18)

From Clerk of the Board, reporting that the following individuals have submitted Form 700 Statements: (19)

Rick Caldeira - Legislative Deputy Director - Leaving

From: Board of Supervisors, (BOS)
To: Somera, Alisa (BOS); Ausberry, Andrea
Subject: File 160102 FW: Polk District Merchants Support of Sup. Peskin's Formula Retail Controls Legislation
Attachments: PDMA letter of support 2-22.pdf

From: duncan.ley@gmail.com [mailto:duncan.ley@gmail.com] **On Behalf Of** duncan ley
Sent: Monday, February 22, 2016 3:45 PM
To: SBAC (ECN) <sbac@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Avalos, John (BOS) <john.avalos@sfgov.org>; Breed, London (BOS) <london.breed@sfgov.org>; Campos, David (BOS) <david.campos@sfgov.org>; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Mar, Eric (BOS) <eric.mar@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Wiener, Scott <scott.wiener@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Grob, Carly (CPC) <carly.grob@sfgov.org>; planning@rodneymfong.com; Johnson, Christine (CPC) <christine.d.johnson@sfgov.org>; Richards, Dennis (CPC) <dennis.richards@sfgov.org>; cwu.planning@gmail.com; mooreurban@aol.com; richhillissf@yahoo.com; wordweaver21@aol.com; Middle Polk Neighbourhood Association <moe@middlepolk.org>; Tina Moylan <tinamoysf@yahoo.com>; Stephen Cornell <spcsf48@yahoo.com>
Subject: Polk District Merchants Support of Sup. Peskin's Formula Retail Controls Legislation

Please find attached and copied below the Polk District Merchants Association's letter of support for Supervisor Peskin's proposed formula retail controls legislation.

Polk District Merchants Association (PDMA) supports legislation to enhance controls on formula retailers that will protect and enhance Polk St and our Neighborhood Commercial District for our residents, visitors, and small local merchants. Enhanced controls on formula retail will help our street thrive and encourage the creativity and uniqueness that is an important part of the fabric of San Francisco. PDMA has canvassed neighborhood merchants throughout the Polk Neighborhood Commercial District (NCD) and merchant support for stronger controls is strong.

Polk St. has a decade's long history of attracting and supporting small and independent retail merchants and services. Indeed, the Polk NCD is one of the few remaining traditional shopping districts in San Francisco that has yet to be taken over by corporate conglomerates. Our neighborhood is recognized as one of San Francisco's best for our high concentration of locally owned independent businesses who provide a unique variety of services. Many of more most popular merchants have been doing business here for decades including Russian Hill Bookstore, The Jug Shop, Frame-O-Rama, The Bell Tower, Dr. Hiura Optometry, Swan Oyster Depot, Brownie's Hardware, Victor's Pizza and Polk Street's historic LGBT Bar – the Cinch. Our neighborhood has old-world San Francisco charm that could be gone forever without stronger formula retail controls.

The time to act is now. Construction will soon begin to replace Polk St's aging sewage system, while Van Ness Ave will also be under construction due to the implementation of the Bus Rapid Transit changes. Inevitably, Polk St merchants will see disruptions of business and significant challenges to their daily operations for the next 24 – 36 months. Moreover, our neighborhood merchants have been facing recent threats by large big-box formula retailers to enter the Polk NCD and lock up precious sites with long term leases. Such retailers will continue to be welcomed along Van Ness Avenue one block outside of the Polk NCD and consistent with smart neighborhood and city planning. This legislation is needed now to ensure the distinctive character of our neighborhood is preserved for future generations of San Franciscans.

Stronger controls work. There is precedence for stronger formula retail controls in several neighborhoods including North Beach and Hayes Valley – 2 thriving neighborhoods that echo our unique and eclectic variety of merchants and service providers. Communities throughout the Bay Area are adopting stronger formula retail controls as they too see small family owned businesses becoming extinct at an alarming rate.

PDMA believes this legislation will protect legacy businesses who have been the ambassadors of our neighborhood for decades, while attracting new merchants and support their efforts to one day become legacy businesses, too. We urge you to support our neighborhood merchants and to APPROVE this legislation for enhanced controls on formula retail within the Polk NCD.

Duncan Ley

President

Polk District Merchants Association

--
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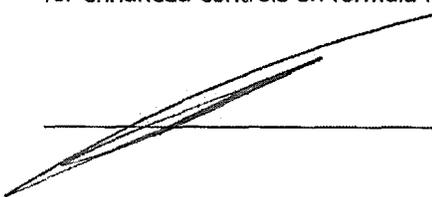
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Duncan Ley
President
Polk District Merchant Association



SAN FRANCISCO AFRICAN AMERICAN CHAMBER OF COMMERCE

February 8, 2016

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
FEB 22 PM 2:52

Executive Board

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F. E. Jordan Associates, Inc.

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Stevens + Associates Architect

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Dr. Toye Moses
GlobalKconnect & Co.

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ADR Continental Group

Board of Supervisors
City Hall, 1 Dr. Carlton B Goodlett Place
San Francisco, CA 94102

RE: No Competitive Solicitation Process – Selection of Preferred Contractor
– Regents of the University of California Modern Electronic Health Record
System

Dear Supervisors,

I, Dr. Caesar Churchwell, Sr. Vice President of the African American Chamber of Commerce representing over 300 small businesses, am outraged that the Board of Supervisors continues to review and award major contracts without providing opportunity to the small business community to participate. I would like to bring to your attention an issue with the current Sole Source process that we recently saw in the Wastewater treatment plant and apparently will see again with the Modern Electronic Health Records.

This is a large contract, upwards of \$150 million, which was not even put through an RFP process by the San Francisco Department of Health despite numerous speakers at their public meetings pointing out that this is an unfair process. This sole source trend is worrying as it clearly places interested small businesses at a disadvantage to be able to participate in large contracts. Our city has fought hard to create LBE and DBE inclusion goals, and now it seems that department heads are simply skipping over them because it takes a bit more time.

It is these tactics that prevent the companies within our network who are more than qualified to be properly noticed and ultimately participate in the process.

This would be an opportunity of a lifetime for many of our firms and we should not be forced to wait until the next time because the process to include LBEs fell between the cracks.

This RFP should be issued anew with the local business component included.

Sincerely,
Caesar A. Churchwell

Dr. Caesar Churchwell, Sr. Vice President
San Francisco African American Chamber of Commerce

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: Human Rights Commission Fair Chance Act Report
Attachments: HRC Fair Chance Report FINAL.pdf

From: Polk, Zoe (HRC)
Sent: Tuesday, February 23, 2016 2:31 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Human Rights Commission Fair Chance Act Report

In accordance with Section 4911(b) of Article 49 of the San Francisco Administrative Code, the Human Rights Commission submits this report to the Board of Supervisors.

Kindly,
Zoe Polk

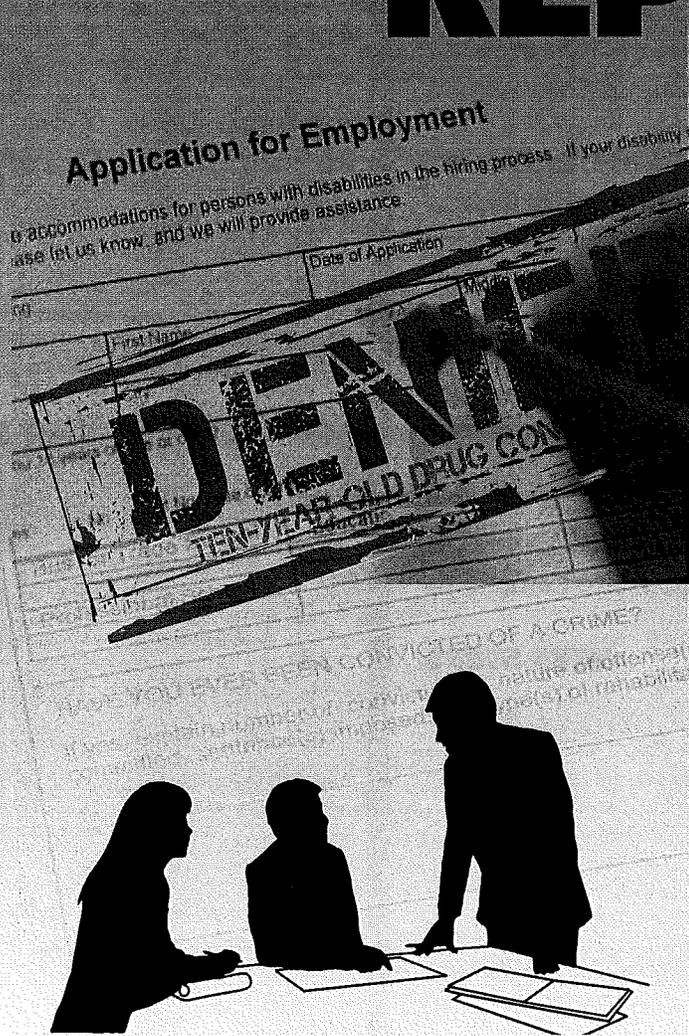
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**TO OBTAIN
EMPLOYMENT**

**TO HOUSE
OUR FAMILIES**

**TO HELP
US THRIVE**

FAIR CHANCE ORDINANCE FIRST YEAR REPORT



**A REPORT BY THE SAN FRANCISCO HUMAN RIGHTS COMMISSION
JANUARY 2016**



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ABOUT THE FAIR CHANCE ORDINANCE

On March 4, 2014, Mayor Lee signed into law Article 49 of the San Francisco Administrative Code, "The Fair Chance Ordinance" ("FCO"). It went into effect on August 13, 2014, 180 days following the signing.

The FCO applies to all affordable housing providers ("housing providers") in San Francisco, as well as all employers located or doing business in the City that have 20 or more employees. The HRC enforces the FCO's provisions related to affordable housing, and the Office of Labor Standards Enforcement ("OLSE") enforces its employment provisions.

With regard to affordable housing, all housing providers are subject to specific advertising, communication, notice, posting, and record-keeping requirements related to consideration of arrest and/or conviction records as a factor in any negative housing action, including refusal to rent. Blanket exclusions of persons with arrest and/or conviction records are unlawful, and housing providers may only consider a tenant applicant's arrest and/or conviction record at certain times and within certain limitations. If a housing provider wishes to take a negative housing action based on a person's arrest and/or conviction record, the housing provider must follow a specific procedure that includes proper notice, a response period, and consideration of additional mitigating evidence.

In sum, the FCO provides persons with arrest and/or conviction records the opportunity to be considered for employment and housing on an individual basis, thereby affording them with a "fair chance" to acquire employment and housing, effectively reintegrate into the community, and provide for their families and themselves.

ABOUT THE SAN FRANCISCO HUMAN RIGHTS COMMISSION

The San Francisco Human Rights Commission ("HRC") provides leadership and advocacy in securing, protecting and promoting human rights for all people. For over 50 years, HRC has grown in response to San Francisco's mandate to address the causes of and problems resulting from bias and discrimination. HRC has the good faith and commitment of San Francisco's leaders to be an independent voice of human rights protection for all people and, again and again, leads the way on groundbreaking initiatives in the realm of human and civil rights. To that end, HRC:

- advocates for human and civil rights;
- resolves community disputes involving individual or systemic illegal discrimination;
- provides technical assistance, information and referrals to individuals, community groups, businesses and government agencies related to human rights and social services; and
- investigates and mediates discrimination complaints.

HRC RESPONSIBILITIES UNDER THE FAIR CHANCE ORDINANCE

Under Article 49, the Human Rights Commission has the following primary responsibilities:

- publish and issue a notice that informs affordable housing applicants of their rights under the Article;
- enforce the Ordinance, including investigating possible violations of the Article;
- establish rules for the administrative process for determining and appealing violations of the Article; and
- establish a community-based outreach program regarding rights and procedures under the Article.

In addition, Section 4911(b) of Article 49 requires the HRC to maintain a record of the number and types of complaints it receives and the resolution of those complaints. The information shall be compiled on an annual basis and reported to the Board of Supervisors by January 31 of each year.

This report is in compliance with this subsection.

FAIR CHANCE OUTREACH AND ENGAGEMENT

Beginning in 2011, the HRC conducted meetings with local stakeholders to learn more about how to best reduce barriers to persons with arrest and conviction records. HRC also collaborated with community-based organizations at the forefront of efforts to reform reentry services and conducted over 50 meetings with neighborhood associations and housing providers. Leading up to and following the implementation of the FCO, the HRC has continued to conduct trainings for affordable housing providers and persons with arrest and conviction records on the rights and requirements of the Ordinance.

HRC In-House Training

During the first year of enforcement, from August 13, 2014 to August 13, 2015, the HRC hosted several in-house training sessions for housing providers, tenants, and tenant applicants. The housing provider sessions were hosted during lunch hours, and the tenant and tenant applicant sessions were held after work hours, to ensure maximum attendance and participation.

In each one-hour training session, HRC staff spent approximately 30 minutes reviewing the Ordinance and then responded to specific questions of importance to each stakeholder group. In addition, at the housing provider training sessions, the HRC distributed 18"x24" posters of the Notice of Rights and Responsibilities Under the FCO so that housing providers could post the Notice to comply with the FCO.

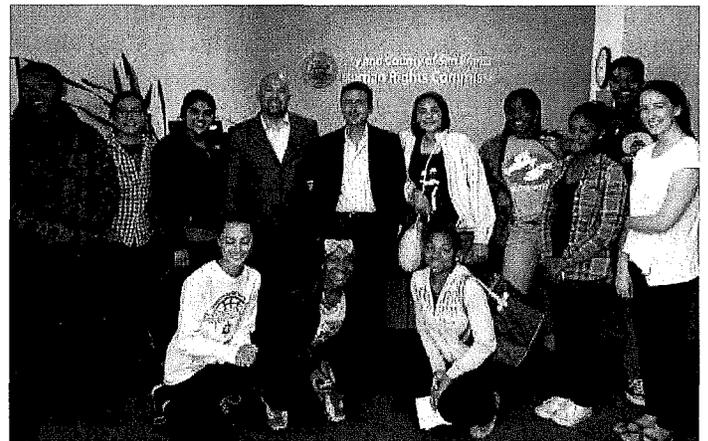
Quarterly Meetings With Community Groups

Many aspects of the FCO were initially spearheaded by a group of community organizations referred to as the Fair Chance Coalition. In recognition of the strong community ties of the Fair Chance Coalition and with the goal of creating a transparent, relevant process for receiving community input about the FCO, the HRC partnered with the Office of Labor Standards and Enforcement ("OLSE") to host quarterly meetings with the Coalition. During these meetings, HRC and OLSE provided general, non-identifying information on complaints received, shared dates on planned community outreach, and obtained recommendations to increase access to FCO protections.

These meetings also enabled HRC and OLSE to check in and align practices and outreach between the two agencies. Towards this end, HRC and OLSE set up a referral system for misdirected inquires. In addition, HRC reviewed and modeled its Frequently Asked Questions document after OLSE's version. HRC and OLSE aligned presentation schedules and attended presentations together, including at the Five Keys Charter School Reentry Resources Fair.

Grant Funding for Community Engagement

On July 1, 2015, with funding designated by San Francisco Supervisor London Breed, HRC solicited proposals from non-profit organizations to conduct comprehensive community-based outreach to persons with arrest and conviction records in San Francisco. The funding was issued in recognition that, despite HRC's outreach, many San Francisco residents are still unaware of the FCO and their new rights and responsibilities that accompany it. The purpose of this grant funding is to select a community-based organization to assist the HRC in further education and enforcement of the FCO.



Youth Engagement

From June 1 to August 10, 2015, the HRC hosted twenty students ages 13-17 for a summer educational program. Over the course of 10 weeks, students interacted with the Fair Chance Ordinance. Students engaged in role play exercises, heard from guest speakers, and discussed current events related to the Ordinance. In addition, they were assigned homework to talk about the FCO with their families and friends.

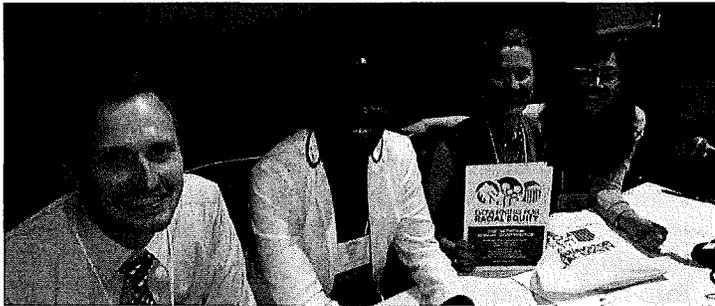
At the end of the summer, the students presented on the Fair Chance Ordinance at the Ella Hill Hutch Community Center to a crowd that included their parents, friends, members of the San Francisco Police Department, and other city officials.

NATIONAL PARTNERSHIPS

Fair Chance Implementation Strategies For Government Agencies

HRC partnered with the National Employment Law Project (“NELP”) to co-write two national publications on the Fair Chance Ordinance. With the goal of providing relevant and current information to local enforcement agencies, the reports examined the successes and challenges of Fair Chance legislation in Seattle, Washington; San Francisco, California; and Washington, D.C.

The publications were presented and distributed at the annual Governing for Racial Equity conference, held in Seattle from June 11 to 12, 2015. During the conference, more than 500 local government practitioners from around the country convened to discuss strategies to end institutional and structural racism, strengthen regional alliances, and increase public will to achieve racial equity. HRC joined representatives from the Washington, D.C. Office of Human Rights, the Seattle Office of Civil Rights, and NELP on a panel discussion entitled, “Beyond Ban the Box: Strategies for Implementing and Enforcing Fair Chance Law.”



National League of Cities Webinar

In partnership with the National League of Cities and NELP, the HRC participated in a webinar exploring enforcement strategies for Fair Chance laws. Marketed to civil rights compliance agencies around the country, the webinar was attended by over 75 local government representatives.



GOVERNING FOR RACIAL EQUITY

2015 Annual Conference

A conference for employees and elected officials working in Government.

Seattle • June 11-12, 2015

BEST PRACTICES IN FAIR CHANCE ENFORCEMENT

Best Practices in Fair Chance Enforcement reviews case studies of Fair Chance laws from San Francisco, Seattle, and the District of Columbia provides best practices, including:

- “Ban-the-Box” to prevent employers and housing providers from considering arrest and/or conviction records in employment and housing decisions;
- Delay conviction history inquiries until a conditional offer of employment is made, since waiting until the final hiring stage clarifies the rationale for an adverse decision, facilitating enforcement;
- Require individualized assessments of applicants, considering the age of the offense, its job or housing relevance, and evidence of rehabilitation;
- Provide clear standards to reduce blanket exclusions of people with arrest and/or conviction records;
- Provide applicants with both notice of the rationale for proposed denials of employment or housing as well as the opportunity to review background check reports before a final decision is made, avoiding misinformed decisions based on common errors in background check reports; and
- Allow for agency-initiated investigations as well as complaint-based investigations, to ensure that agencies are not wholly relying on complaints and can direct their resources to high-impact cases.

DRAFTING FCO RULES OF ENFORCEMENT

From March 4 to August 13, 2014, during the six-month period after Mayor Lee signed the FCO into law but before the law went into effect, the HRC met with community based organizations and housing providers to draft rules of enforcement for the FCO.

Housing Provider Round Table Discussions

In 2014, the HRC invited San Francisco housing providers to participate in the rulemaking process. Over the course of several meetings, HRC staff and representatives from Mercy Housing, Tenderloin Neighborhood Development Cooperation, Chinatown Community Development Corporation, Caritas Management Corporation, and Community Housing Partnership reviewed the ordinance, identified areas needing clarity, and created language to guide complainants and respondents on addressing violations of the FCO.

These sessions were useful to all parties. Housing providers indicated areas of enforcement of the law that would be difficult for them. When these challenges were presented, the group engaged in collective brainstorming to address concerns. Some of the concerns and solutions are detailed as follows.

"Thanks for including me as a part of the Fair Chance roundtable discussion. I appreciate the clarification and guidance from the HRC and the comments from the roundtable participants. It made it easier to guide my staff properly to properly revise the various application forms and resident selection plans to make sure we are in compliance with the Fair Chance Ordinance. Thanks again."

– FCO ROUND TABLE DISCUSSION PARTICIPANT

CONCERN 2:

Some housing providers receive both City and federal funding. Federal regulations require housing providers to exclude persons with certain convictions from the property without an individualized assessment as required by Article 49 §4906(f).

BRAINSTORMED SOLUTION: HRC and affordable housing providers reviewed Article 49 §4916, which states that federal and state law preempts the FCO when there is a conflict, allowing housing providers to follow the federal law in such instances without violating the FCO. Housing providers also reviewed the specific, limited convictions prohibited from federally funding housing under the applicable law. Housing providers would continue to ensure employees are trained on and apply these requirements.

CONCERN 1:

Given the long wait lists for affordable housing and thousands of applications on file, housing providers expressed concern about the amount of time it would take to ensure their applications and application processes are FCO compliant.

BRAINSTORMED SOLUTION: HRC staff reminded housing providers that the first year of the ordinance is an "education year." Under Article 49 §4911(a)(2), any violation of the law would result in warnings and Notices to Correct. Financial penalties would not be issued until 12 months after the ordinance had been in effect, providing housing providers with a full year to bring their applications and application processes into compliance with the FCO.

CONCERN 3:

Affordable housing providers have received many applications that already include information on a tenant applicant's arrest or conviction history. After the FCO went into effect, this would violate Article 49 §4906(c).

BRAINSTORMED SOLUTION: Affordable housing providers could designate an employee to redact this information on all applications. This employee would not be the person in charge of making housing decisions. Other housing providers indicated that they would issue new FCO compliant applications.

CONCERN 4:

Housing providers have long wait lists for tenancy. When a unit becomes available, they work to fill the unit as quickly as possible by contacting the next three people on the waiting list. The first of these three applicants to submit their application will become the successful tenant. The FCO will slow down this process because if an applicant was issued a notice of adverse action based on criminal history and filed a complaint with the HRC, the housing provider would have to wait for a full investigation of the complaint to be filled before filling the unit.

BRAINSTORMED SOLUTION: housing providers and HRC staff discussed how the pre-FCO system is detrimental to persons with arrest and conviction records because their applications always take longer to process than an applicant without a conviction history, thereby disqualifying them from ostensibly neutral “first come, first served” policies. Under the FCO, persons with arrest and conviction records are ensured an opportunity for their record to be individually assessed and have evidence of rehabilitation considered before the unit is filled.

CONCERN 6:

Some housing providers do not receive detailed conviction history reports. Instead, they receive a notification from the background check company that indicates the applicant passed or did not pass. This process could violate Article 49 §4906(a), if prohibited inquiries were made, and §4906(f), if no individualized assessment was conducted.

BRAINSTORMED SOLUTION: Many affordable housing providers use different companies for their tenant screening needs. In discussion, housing providers indicated that they entered into contracts with background check screening companies that are updated on a regular basis. They determined that they would reach out to their background check companies and work with them to ensure that only information compliant with the FCO was reported on the background check report. In addition, HRC offered to contact the background check company on the housing provider’s behalf to discuss the requirements of the ordinance.

CONCERN 5:

The affordable housing provider’s background check company provides all of the information, including credit history, eviction history, income verification, and arrest and conviction history, on one report. Receiving all of this information at once could violate Article 49 §4906(c).

BRAINSTORMED SOLUTION: The assembled affordable housing providers discussed the different mechanisms in which they receive conviction history information. Some housing providers in the meeting indicated that their background check company provided them with an option to delay information about conviction history. Another housing provider stated that their background check screening company placed a blank sheet of paper between credit and eviction history reports and an applicant’s conviction history.

As a result of this discussion, HRC included language in Section IV(D) of the Rules of Enforcement, entitled “Obtain but not Review.” This section permits housing providers to obtain conviction history information at the same time as credit and rental history with the condition that the conviction history is not reviewed until after the other reports have been reviewed. Affordable housing providers were advised to document and maintain records of this process.

CONCERN 7:

Under Article 49 §4906(h), after an applicant provides evidence of rehabilitation, housing providers must delay an adverse action for a reasonable period to reconsider the action in light of the applicant’s new evidence. However, what constitutes a “reasonable time” is not defined by the Ordinance.

BRAINSTORMED SOLUTION: HRC staff indicated that the amount of time each housing provider spent reviewing evidence of rehabilitation would differ. HRC stated that if a complaint of discrimination was made, investigators would want to see evidence from the housing provider that the information was considered. Housing Providers proposed creating a document checklist so there would be a standard procedure followed in each case.

Review With Mayor's Office of Housing

HRC has worked in consultation with the Mayor's Office of Housing and Community Development ("MOH") on rule making and enforcement per Article 49 §4911 of the FCO. During the course of several meetings, the HRC and MOH reviewed the draft rules and the proposed Notice of Rights and Responsibilities under the Fair Chance Ordinance and set up a system for identifying properties subject to the Fair Chance Ordinance.

In addition, on July 11, 2014, the HRC presented the proposed rules to the MOH Counseling Working Group and received feedback that was incorporated into subsequent draft rules.

Public Hearing on Rules

On August 28, 2014, the Commission hosted a public hearing on the draft rules. Notice of the hearing was issued to all affordable housing providers. The Commission heard testimony from HRC and MOH staff as well as public comment from one affordable housing provider in attendance. On November 4, 2014, after a two month public comment period, the rules were finally adopted.

NOTICE TO TENANTS, HOUSING APPLICANTS, AND AFFORDABLE HOUSING PROVIDERS
CITY AND COUNTY OF SAN FRANCISCO



San Francisco Police Code Article 49 – Fair Chance Ordinance (FCO) Protections for People with Prior Arrests or Conviction Records

Under the Fair Chance Ordinance (FCO), you have the right to:

- 1) Have a list of your other options for affordable housing available BEFORE your housing provider knows anything about your prior arrests or conviction records.
- 2) Not be asked about your arrest record through a pre-employment form.
- 3) Be provided with a copy of this notice before your housing provider runs your background report.
- 4) Not have any of the following "off-limits" categories requested or considered:
 - arrests that did not result in conviction
 - participation in a diversion or deferred judgment program
 - expunged, judicially dismissed, or vacated or otherwise disposed convictions
 - juvenile record
 - a conviction over 7 years old
 - an infraction
- 5) Have your record assessed individually, in order to only the "directly related" convictions and unresolved arrests in your record are considered. (See below for more for a definition of "directly related")
- 6) Be provided with a copy of the background report and told if the conviction or arrest would affect the odds for the potential denial. You have 30 days to respond orally or in writing to show that you shouldn't be denied. You can respond by:
 - Pointing out any inaccuracies in the report.
 - Providing evidence of rehabilitation. Evidence of rehabilitation includes satisfying the requirements for probation/parole, participating in a counseling program, or any other evidence of positive change in your life.
 - Explaining any mitigating factors about the circumstances of the conviction. Mitigating factors include physical or emotional abuse, coarctation, increased abuse or mental health that led to the conviction.
- 7) Call the Human Rights Commission to understand your rights or file a complaint (within 90 days of violation) without any negative action or retaliation taken against you by your Housing Provider.

FAIR CHANCE ORDINANCE

INFORMATION SESSIONS

FOR AFFORDABLE HOUSING APPLICANTS AND TENANTS



The Human Rights Commission (HRC) will host monthly sessions for **AFFORDABLE HOUSING APPLICANTS AND TENANTS** on the Fair Chance Ordinance/Article 49 of the Police Code. HRC staff will answer questions and provide information regarding applicants' rights under the law.

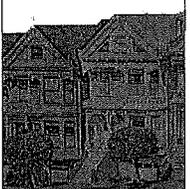
LOCATION:
San Francisco Human Rights Commission
25 Van Ness Avenue
Suite 800
San Francisco CA 94114

DATES:
August 20
September 17
October 29
November 19
December 17

All sessions will be at
5:00 p.m.

To RSVP: email
zoe.polk@sfgov.org

FAIR CHANCE ORDINANCE INFORMATION SESSIONS FOR AFFORDABLE HOUSING PROVIDERS



LOCATION:
San Francisco Human Rights Commission
25 Van Ness Avenue
Suite 800
San Francisco CA 94114

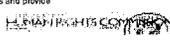
DATES:
August 27
September 24
October 29
November 17
December 17

All sessions will be at
3:00 p.m.

To RSVP: email
zoe.polk@sfgov.org

The Human Rights Commission will host monthly sessions for affordable housing providers on the Fair Chance Ordinance/Article 49 of the Police Code. HRC staff will answer questions and provide information on the enforcement and complaint process.

For more information on the Fair Chance Ordinance, visit:
<http://hrc.org/links-fair-chance-ordinance>



For more information on the Fair Chance Ordinance, visit:
<http://sf.hrc.org/article-49-san-francisco-police-code-fair-chance-ordinance>



FCO COMPLIANCE SURVEY

In December 2015, the HRC conducted a survey of San Francisco affordable housing providers to examine the effects of its FCO outreach and the extent of housing providers' compliance with the Ordinance from August 13, 2014 to August 13, 2015. At the time of publication, the HRC received 100 unique survey responses representing 58 housing providers in the City with a total of 5,354 employees.

The information received from these 58 housing providers was self-reported. HRC will conduct follow up reviews based on information provided.

Survey Respondents

While the size of the housing providers surveyed varies from 1 to 3,000 employees, the majority of survey respondents are small businesses or nonprofits with between 1 and 5 employees.

Housing Provider by Number of Employees	Total Number of Respondents In Housing Provider Size Range	Percentage of Respondents In Housing Provider Size Range (Approximate)
1-5	19	32.8%
6-10	13	22.4%
11-50	13	22.4%
51-200	8	13.8%
201-500	3	5.2%
More than 500	2	3.4%

Question 1: How Many Vacant Units Did Your Company Have In San Francisco Between August 13, 2014 and August 13, 2015?

Survey respondents reported a total of 2,102 vacant units over this yearlong period. The majority of these vacancies were managed by employers with 51-200 employees.

Housing Provider by Number of Employees	Total Number of Vacant Units In Housing Provider Size Range	Percentage of Total Vacant Units In Housing Provider Size Range (Approximate)
1-5	35	1.7%
6-10	173	8.2%
11-50	220	10.5%
51-200	960	45.7%
201-500	221	10.5%
More than 500	493	23.5%

Question 2: Between August 13, 2014 and August 13, 2015, How Many Vacant Units Did You Fill?

Survey respondents filled a total of 1,971 units during this period out of 2,102 available vacancies (93.8%).

Housing Provider Size by Number of Employees	Total Number of Vacant Units Filled In Housing Provider Size Range (Percentage Filled)	Percentage of Total Vacant Units Filled In Housing Provider Size Range (Approximate)
1-5	32 (out of 35; 91.4%)	1.6%
6-10	146 (out of 173; 84.4%)	7.4%
11-50	178 (out of 220; 80.9%)	9.0%
51-200	930 (out of 960; 96.9%)	47.2%
201-500	192 (out of 221; 86.9%)	9.7%
More than 500	493 (out of 493; 100%)	25.0%

Question 3: Between August 13, 2014 and August 13, 2015, How Many of Your Vacant Units Were Filled By Persons With Arrest and/or Conviction Records?

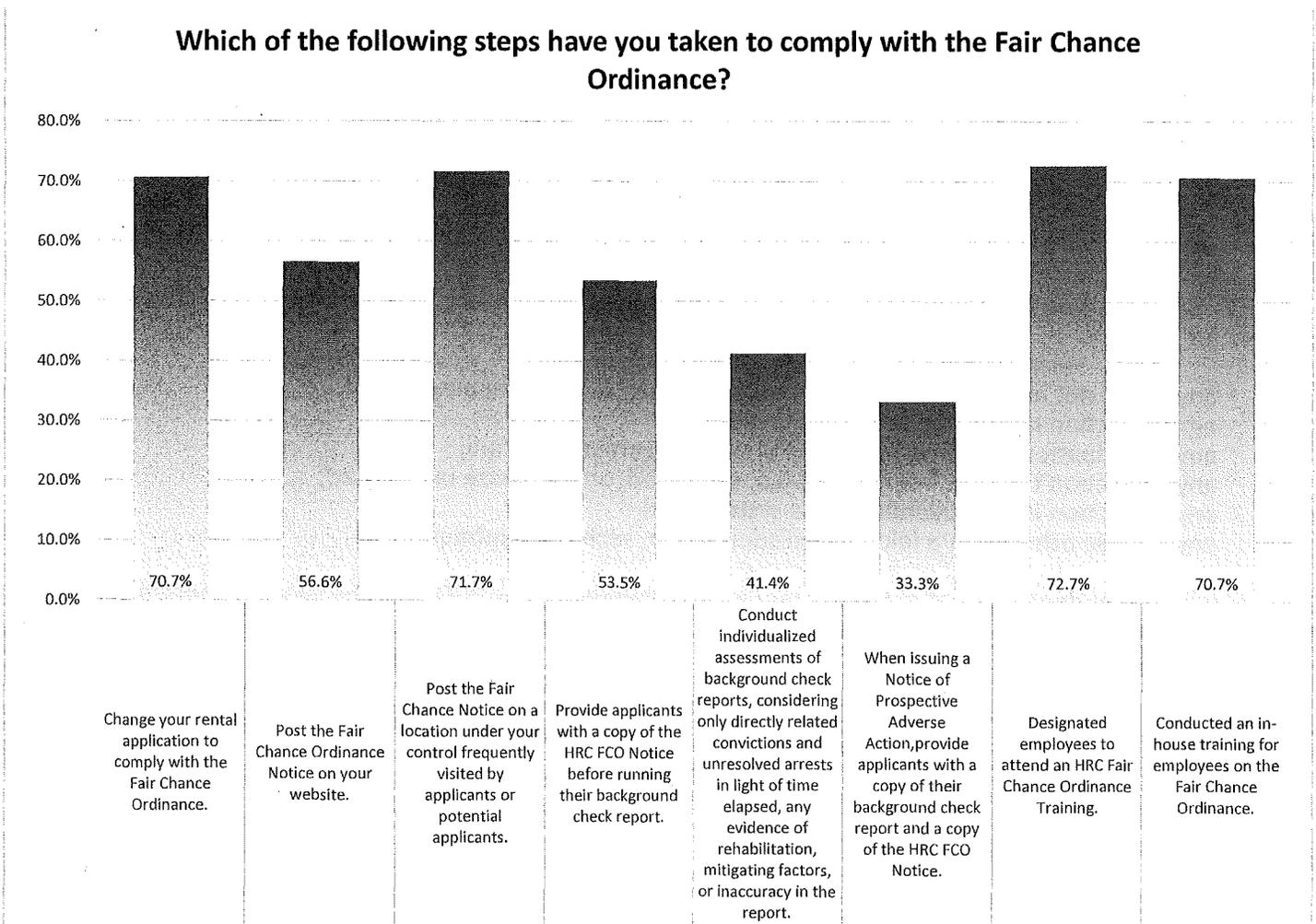
Survey respondents reported that out of 1,971 filled vacancies during this period, only 112 vacancies were filled by persons with arrest and/or conviction records (5.7%).

Housing Provider Size by Number of Employees	Total Number of Vacant Units Filled By Persons With Arrest and/or Conviction Records In Housing Provider Size Range (Percentage Filled)	Percentage of Total Vacant Units Filled By Persons With Arrest and/or Conviction Records In Housing Provider Size Range (Approximate)
1-5	0 (out of 32; 0%)	0.0%
6-10	26 (out of 146; 17.8%)	23.2%
11-50	18 (out of 178; 10.11%)	16.1%
51-200	40 (out of 930; 4.3%)	35.7%
201-500	27 (out of 192; 14.1%)	24.1%
More than 500	1 (out of 493; 0.2%)	0.9%

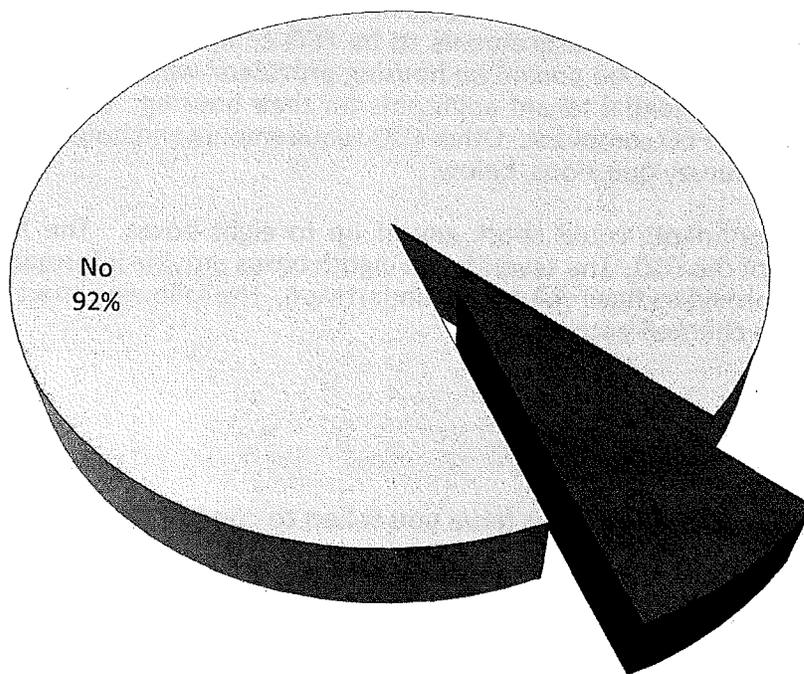
Question 4: Which of the Following Steps Have You Taken to Comply With the Fair Chance Ordinance?

The FCO requires housing providers to follow certain advertising, communication, notice, posting, and record-keeping requirements and to conduct an individualized assessment of tenant applicants with arrest and/or conviction records. For example, in all solicitations or advertisements for affordable housing, the housing provider must state that it will consider for tenancy qualified applicants with criminal histories in a manner consistent with the FCO. Because this statement would not have been posted prior to the FCO, housing providers must update their solicitations and advertisements to be FCO compliant. Similarly, the FCO requires that a FCO “Know-Your-Rights”-style notice be posted on housing providers’ websites and at any location under their control that is frequented by potential tenant applicants for their housing. Housing providers therefore must post this notice properly to be FCO compliant. Other FCO requirements and housing providers’ compliance with them are described in later survey questions, below.

In Question 4, survey respondents could check any of up to eight boxes. The first six represent different compliance requirements of the FCO. The seventh and eighth boxes provide information regarding the extent of FCO training that housing providers have voluntarily undertaken. The following chart represents the percentage of survey respondents who checked each box.



Question 5: Between August 13, 2014 and August 13, 2015, Did Your Company Make Any Inquiries Prohibited By the Fair Chance Ordinance?



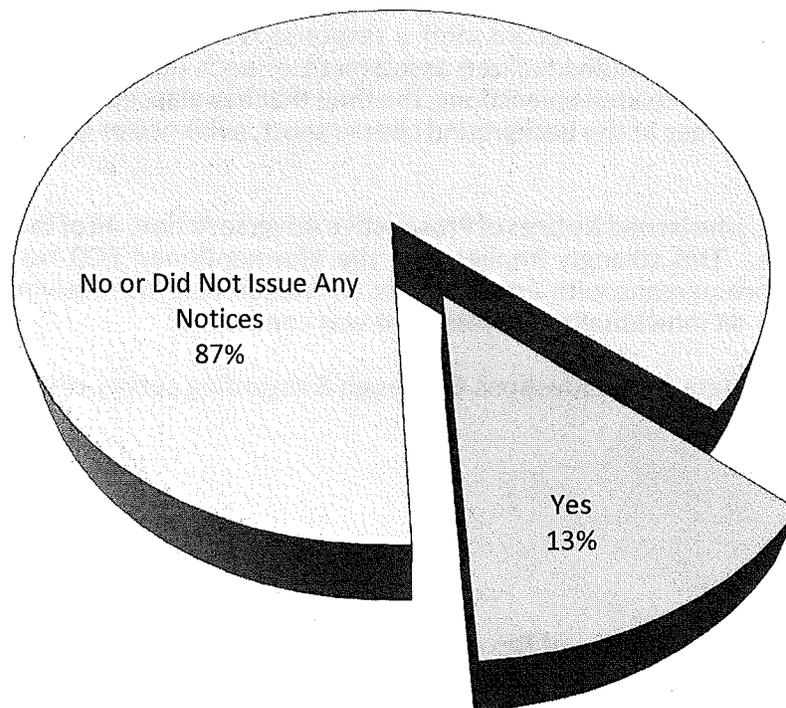
The FCO prohibits housing providers from inquiring about the following at any time during the application process for tenancy:

- any arrest not leading to conviction, except for any unresolved arrest;
- any conviction more than seven years old;
- any participation in a diversion or deferral of judgment program;
- any conviction that has been dismissed, expunged, or otherwise invalidated;
- any conviction in the juvenile justice system; and
- any offense other than a felony or misdemeanor, such as an infraction.

Most survey respondents did not make any inquiries prohibited by the FCO over the yearlong period covered by the survey. However, there are a significant number of survey respondents who self-reported that they did not comply with the FCO.

Question 5 did not ask why a housing provider did or did not make inquiries prohibited by the FCO. As such, the survey results do not reveal whether the above noncompliance was intentional or simply the result of lack of knowledge of the FCO during its phased implementation period.

Question 6: Between August 13, 2014 and August 13, 2015, Did Your Company Issue Notices Required By the Fair Chance Ordinance?



Before taking a negative housing action based on an individual's arrest and/or conviction record, such as eviction, denial of an application to rent, failing to add a household member to an existing lease, or reducing a tenant subsidy, the FCO requires that a housing provider issue a Notice of Prospective Adverse Action, attach a copy of the individuals' background check report to the Notice, and give the affected individual 14 days to respond to the Notice, orally or in writing. This allows the individual to provide evidence of rehabilitation, mitigating factors, and/or inaccuracy in the background check report. The housing provider must delay any negative action for a reasonable period after receipt of this response to reconsider it in light of the new information.

Many of the survey respondents did not issue any notices, including Notices of Prospective Adverse Action, during the covered time period and therefore answered "no" to Question 6 without violating the FCO. However, among those who did issue some type of notice between August 13, 2014 and August 13, 2015, most complied with the FCO and issued a Notice of Prospective Adverse Action.

Question 7: If "Yes" to Question 6, How Many Notices Did You Issue?

In total, 10 housing providers issued 49 Notices of Prospective Adverse Action during the yearlong period covered by the survey. The largest number of Notices issued by any one housing provider was reported as 18.

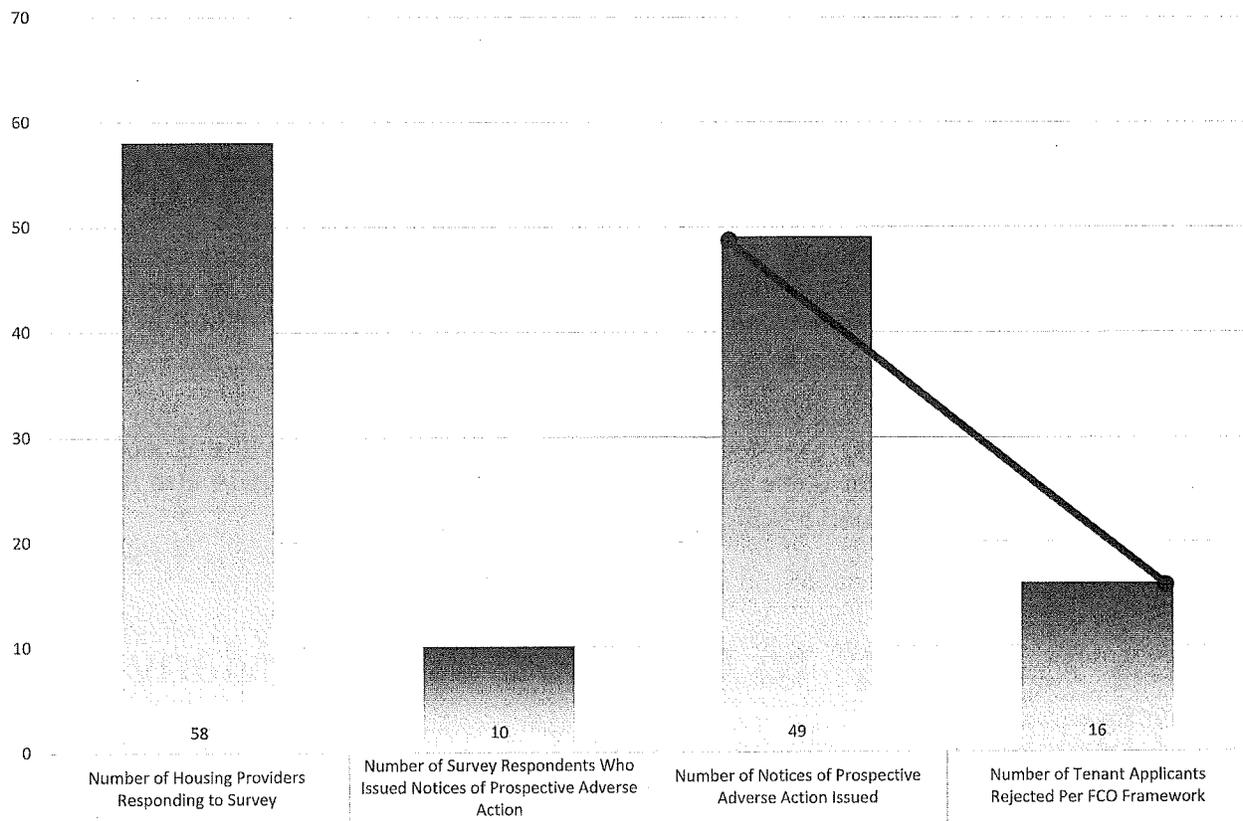
Question 8: If “Yes” to Question 7, After Waiting the Required 14 Day Period, How Many Applicants Did Your Compant Reject Based On A Directly-Related Conviction or An Unresolved Arrest?

The FCO limits the lawful reasons a housing provider can rely upon to take a negative housing action based on an individual’s arrest and/or conviction record after a response is received or the Notice period expires. The housing provider must conduct an individualized assessment of each person with an arrest and/or conviction record, considering only directly-related convictions, the time that has elapsed since the conviction or unresolved arrest, any evidence of inaccuracy in the background check report, evidence or rehabilitation, or other mitigating factors.

Of the 10 housing providers who issued Notices of Prospective Adverse Action, all of them rejected fewer applicants than were issued Notices. This strongly implies that the aforementioned FCO response and reconsideration framework resulted in more persons with arrest and/or conviction records receiving equal treatment to other applicants or tenants after an individualized assessment was conducted.

Below is a summary of the data from Questions 6 through 8 regarding survey respondents who issued Notices of Prospective Adverse Action.

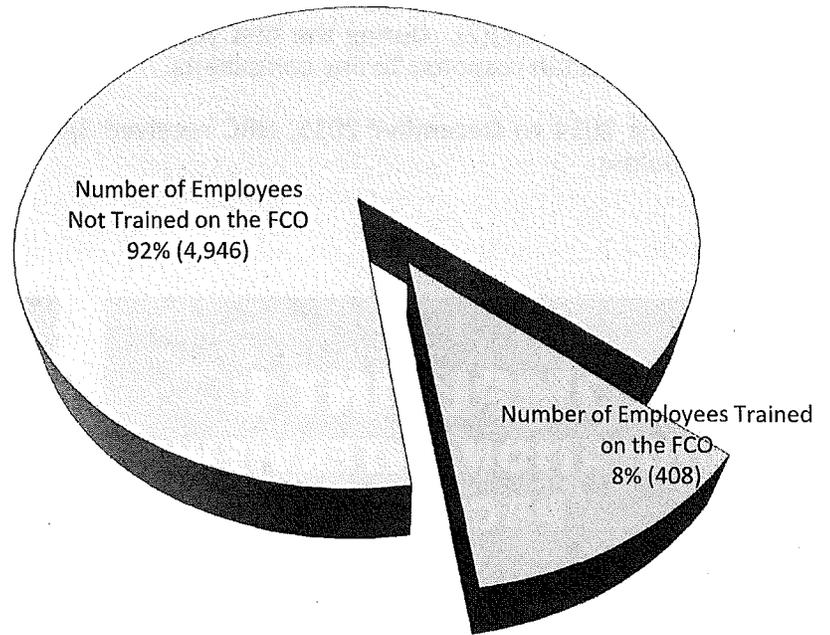
Summary of Responses to Questions 6 Through 8



Question 9: Among Your Employees, How Many Have Received Training Regarding the Fair Chance Ordinance?

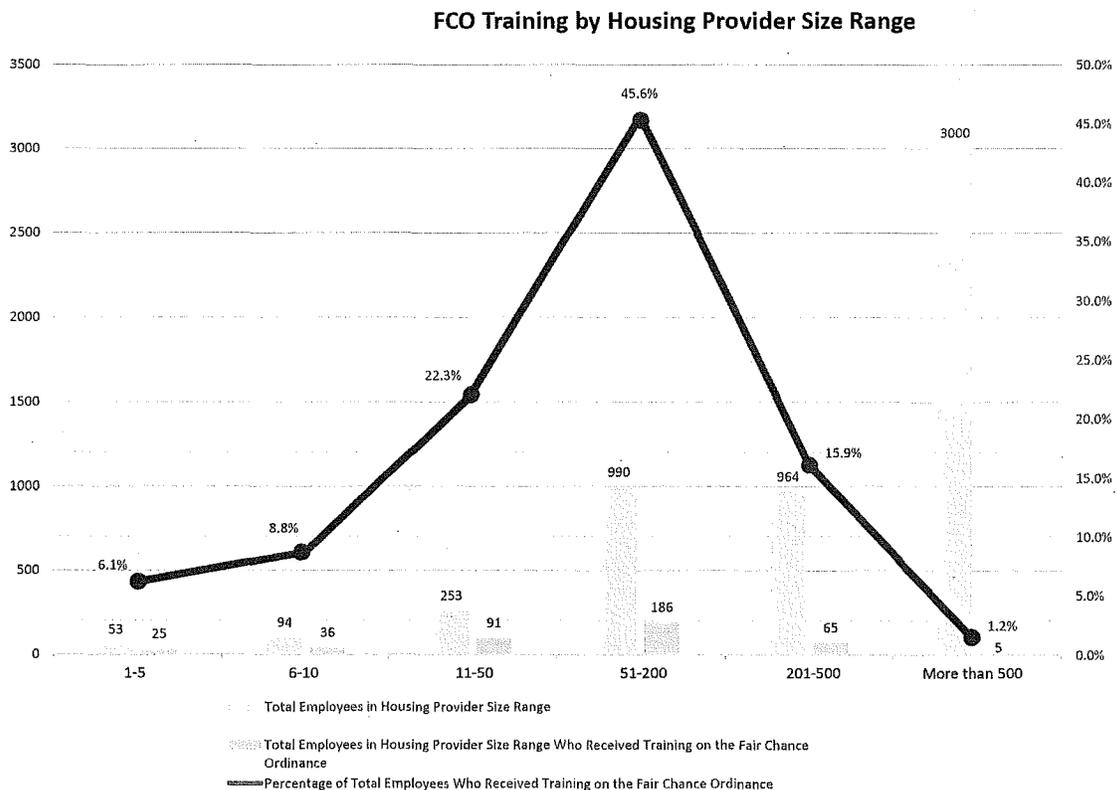
As described above, a thorough outreach campaign is vital to the success of the FCO. Correspondingly, housing providers must make their employees aware of the FCO and oversee their compliance with its requirements. The HRC survey sought to measure housing providers' voluntary trainings on the FCO to gauge these metrics and determine what further outreach may be warranted.

Of the 5,354 employees employed by all survey respondents, 408 received training. Housing providers varied in the application of their training, with most training only a small portion of their staff, and only five housing providers with more than five employees training all of their staff.



5,354 Total Employees Covered by Survey

Despite the small percentage of employees currently trained on the FCO, the majority of survey respondents indicated in Question 4 that they had designated employees to attend an HRC FCO training or conducted their own in-house FCO training. This discrepancy could indicate that further training of housing providers is forthcoming; or that despite housing providers having undergone training, not enough of their employees are being trained; or that housing providers are only providing training to employees who are most likely to have compliance responsibilities specific to the FCO.



FAIR CHANCE COMPLAINTS RECEIVED BY THE HUMAN RIGHTS COMMISSION

Per Article 49 §4911(a)(2), during the first year of enforcement of the Ordinance, HRC issued warnings and Notices to Correct in response to any complaints.

From August 2014 to December 2015, HRC received 14 FCO complaints. A sampling of these complaints is outlined below.

COMPLAINT 1: VIOLATION: INTERVIEW PROCESS

The HRC was contacted by a potential housing applicant who stated that she intended to apply for an available unit in District 6. The applicant stated she was told by management that “no felons” were allowed in the building and that she was dissuaded from applying due to her conviction record.

HRC worked with the Mayor’s Office of Housing and the specific housing provider to remove this language from its housing applications. HRC provided further review of the requirements of the FCO.

COMPLAINT 2: VIOLATION: CONVICTION HISTORY DISCLOSURE ON APPLICATION

A student at San Francisco State University (“SFSU”) contacted the HRC regarding the SFSU housing application. The student stated that the application requests disclosure of any felony convictions. HRC issued a “Letter of Concern” to the university, stating that although the HRC did not have jurisdiction over SFSU, the department encouraged the university to review the Fair Chance best practices available on HRC’s website.

The HRC subsequently provided educational materials on the FCO to the administration of SFSU. HRC also met with SFSU’s Project Rebound, a program organized for students with prior convictions, and provided information on the FCO.



COMPLAINT 3: VIOLATION: FAILURE TO PROVIDE NOTICE OR COPY OF CONVICTION HISTORY REPORT

An individual completed an application for housing in District 6. At no point during the application process did the individual receive a copy of the Fair Chance Notice. The individual was served with a denial notice instead of the required Notice of Prospective Adverse Action and was not provided a copy of his background check report. In its denial of the individual's appeal, the provider stated the denial was due to "an established pattern of criminal activity" but did not state which specific convictions resulted in the denial.

HRC initiated a complaint and is currently investigating this matter.

COMPLAINT 4: VIOLATION: IMPROPER ADVERTISEMENT AND CONVICTION HISTORY INQUIRY ON APPLICATION

The HRC met with an individual who applied for housing in District 10. The advertisement for this listing stated, "Criminal history criteria: is as follows: does not have a misdemeanor conviction: any number in the last 3 (three) years" and "does not have a felony conviction: any number in the last 7 (seven) years."

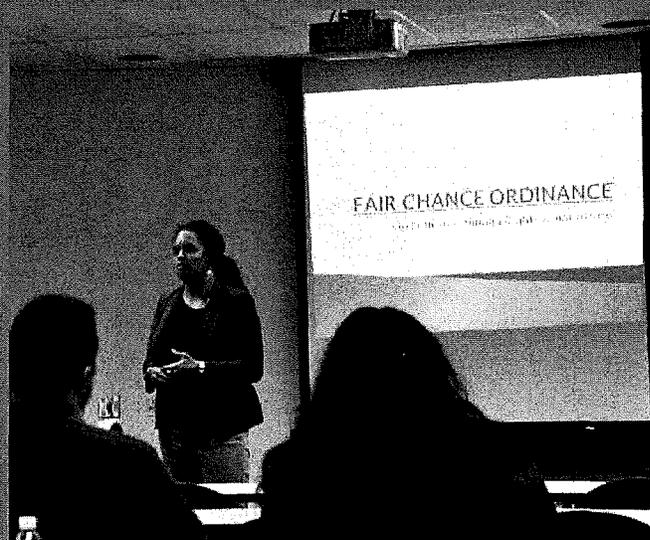
According to the individual, he was asked questions about his conviction history on the application. The individual further stated he was told in an e-mail that his application was denied due to an "unresolved felony" out of state. In addition, there is a document entitled, "Resident Screening Policy for Affordable Housing," accessed from the "Resident Selection Criteria" link on the webpage for this listing. This document stated, "The application will be denied for any of the following reported criminal related reasons," and then listed several types of criminal history information that might appear on a background check report.

HRC initiated a complaint and is currently investigating this matter.

Trainings In Response to Complaints

In addition to issuing Notices to Correct, the HRC provided several free trainings to housing providers, including Chinatown Community Development Corporation, Allen Hotel, CSV Hospitality, Aranda Hotel, CSV Hospitality, Conrad House, and Tenderloin Housing Clinic.

The HRC also provided free in-house trainings for housing providers and tenants/applicants, as described above.



NEXT STEPS

1. Continue Public Education and Outreach. The HRC will continue to provide free training and technical support for Affordable Housing Providers, tenants and housing applicants subject to the FCO.

2. Partnering with the community, engendering trust with complaints and helping reach our most marginalized residents. In 2015, HRC will partner with the Lawyers' Committee for Civil Rights to increase understanding of and fluency with the FCO.

3. Increasing the effectiveness of FCO by ensuring local affordable housing providers can evaluate impact. Based on the survey responses, HRC will follow up with local affordable housing providers on the record keeping process. HRC will learn more about affordable housing providers are documenting their FCO compliance. In addition, HRC will revise the FCO records request to get more information on the effectiveness of the ordinance.

4. Examine barriers faced by persons with arrest and conviction records face in obtaining private housing. HRC will speak to housing providers and applicants regarding the use of conviction history in private housing and the impact of creating a uniform process.

5. Examine FCO protections for live-in aides. HRC will continue its research into the FCO's effect on live-in aides for more information regarding the extent to which live-in aides are protected under the Ordinance.

6. Learning from national examples to increase FCO effectiveness. HRC will also continue to study best practices and successes in other jurisdictions. For example, the HRC is currently considering the Director-initiated charges/complaints. In Seattle, the Office of Civil Rights determined that employees with arrest and/or conviction records fear retaliation from the business community and are reluctant to file complaints. Through increasing the number of Director initiated charges/complaints, the HRC can provide an additional level of anonymity and create a positive ripple effect to increase reporting of violations, thereby improving housing and employment opportunities for people with arrest and/or conviction records in San Francisco.

In addition, the HRC will continue its research on financial penalties and other incentives for reporting violations of the FCO. For example, the Washington, D.C. Office of Human Rights directs penalty funds or Fair Chance violations to complainants and has significant monetary remedies available to incentivize employers to comply and applicants to come forward with suspected violations.

From: Reports, Controller (CON)
Sent: Wednesday, February 24, 2016 2:05 PM
To: BOS-Supervisors; Kawa, Steve (MYR); Howard, Kate (MYR); Steeves, Asja (CON); CON-
EVERYONE; MYR-ALL Department Heads; CON-Finance Officers; SF Docs (LIB)
Subject: Issued: City Services Auditor Summary of Implementation Status of Recommendations
Followed up on in the First Half of FY 2015-16

The Office of the Controller's City Services Auditor Division (CSA) today issued a memorandum on the follow-up of its recommendations conducted in the first half of fiscal year 2015-16. As reported in the memorandum, of the 221 recommendations followed up on, 117 (53 percent) are now closed.

To view the full memorandum, please visit our Web site at:
<http://openbook.sfgov.org/webreports/details3.aspx?id=2279>

This is a send-only e-mail address.

For questions about the memorandum, please contact Director of City Audits Tonia Lediju at tonia.lediju@sfgov.org or 415-554-5393 or the CSA Audits Unit at 415-554-7469.



CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Todd Rydstrom
Deputy Controller

MEMORANDUM

TO: Government Audit and Oversight Committee
San Francisco Board of Supervisors

FROM: Tonia Lediju, Director of City Audits
City Services Auditor Division 

DATE: February 24, 2016

SUBJECT: City Services Auditor Summary of Implementation Status of Recommendations
Followed up on in Fiscal Year 2015-16, First and Second Quarters

The City Services Auditor Division (CSA) of the Office of the Controller (Controller) follows up on all recommendations it issues to departments of the City and County of San Francisco (City) every six months after original issuance. CSA reports on the results of its follow-up activity to the Board of Supervisors' Government Audit and Oversight Committee. This process fulfills the requirement of the San Francisco Charter, Section F1.105, for the auditee to report on its efforts to address the Controller's findings and, if relevant, report the basis for deciding not to implement a recommendation.

The regular follow-up begins when CSA sends a questionnaire to the responsible department requesting an update on the implementation status of each recommendation. CSA assigns a summary status to the report or memorandum for each responsible department according to the audit determination status of each recommendation. The statuses are described in the table below.

Summary of Follow-Up Statuses		
Summary Status	Status of Recommendations	Further Regular Follow-Up?
<i>Closed</i>	All closed	No
<i>Open</i>	At least one open, including any one that the department contests	Yes

Based on its review of the department's response, CSA assigns an audit determination status to each recommendation. A status of:

- **Open** indicates that the recommendation has not yet been fully implemented.
- **Contested** indicates that the department has chosen not to implement the recommendation.
- **Closed** indicates that the response described sufficient action to fully implement the recommendation or an acceptable alternative or a change occurred to make the recommendation no longer applicable or feasible.

Also, CSA periodically selects reports or memorandums resulting in high-risk findings for a more in-depth field follow-up assessment in which CSA tests to verify the implementation status of the recommendations.

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Department Abbreviations	
Abbreviated Name	Full Name
Airport (AIR)	Airport Commission
Arts (ART)	Arts Commission
Assessor-Recorder (ASR)	Office of the Assessor-Recorder
Building Inspection (DBI)	Department of Building Inspection
City Administrator (ADM)	Office of the City Administrator
City Attorney (CAT)	Office of the City Attorney
Contract Administration (OCA)	Office of Contract Administration (part of the General Services Agency)
Contract Monitoring (CMD)	General Services Agency – Contract Monitoring Division
Controller (CON)	Controller's Office
CSA	City Services Auditor Division of the Office of the Controller
District Attorney (DAT)	Office of the District Attorney
Fire (FIR)	Fire Department
Human Resources (DHR)	Department of Human Resources
Human Services (HSA)	Human Services Agency
Medical Examiner	Office of the Medical Examiner
Police (POL)	Police Department
Port (PRT)	Port Commission (Port of San Francisco)
Public Health (DPH)	Department of Public Health
Public Works (DPW)	Department of Human Resources
Rec and Park (REC)	Recreation and Park Department
SFMTA (MTA)	San Francisco Municipal Transportation Agency
SFPUC (PUC)	San Francisco Public Utilities Commission
Sheriff (SHF)	Sheriff's Department
Technology (DT)	Department of Technology

CSA's Regular Follow-Up Activity in the First Half of Fiscal Year 2015-16

During the first half of fiscal year 2015-16, CSA followed up on 221 open recommendations from 34 reports or memorandums (documents).¹ The departments reported implementing 53 percent (117) of the open recommendations. As a result, CSA was able to close 11 of the 34 reports or memorandums.

Exhibit 1 shows the number of recommendations CSA followed up on and their resulting status during the first two quarters and summarizes the status of reports for each department.

Exhibit 1 - Status of Follow-Ups by Department in the First Half of Fiscal Year 2015-16					
Department	Recommendations		Audit Reports		
	Total Followed Up On	Closed as of 12/31/15	Closed as of 12/31/15	Open	Total
Airport	18	16	1	1	2
Arts	1	-	-	1	1
Assessor/Recorder	7	-	-	1	1
Building Inspection	2	2	1	-	1
City Administrator	1	1	1	-	1
City Attorney	3	3	2	-	2
Contract Administration	5	4	1	1	2
Contract Monitoring	4	4	1	-	1
Controller	3	3	1	-	1
District Attorney	2	2	1	-	1
Fire	2	2	1	-	1
Human Resources	1	1	1	-	1
Human Services	7	5	1	1	2
Police	3	2	1	1	2
Port	22	12	2	3	5
Public Health	20	11	2	2	4
Public Works	13	2	1	1	2
Rec and Park	28	8	2	1	3
SFMTA	35	16	1	8	9
SFPUC	34	16	-	2	2
Sheriff	3	3	1	-	1
Technology	7	4	-	1	1
Total	221	117	22	24	46

¹ One report included recommendations for 12 departments and one included recommendations for 2 departments. As a result, the total number of reports shown in Exhibit 1 is greater than the number of unique reports.

Exhibit 2 summarizes the follow-ups CSA closed in the first two quarters.

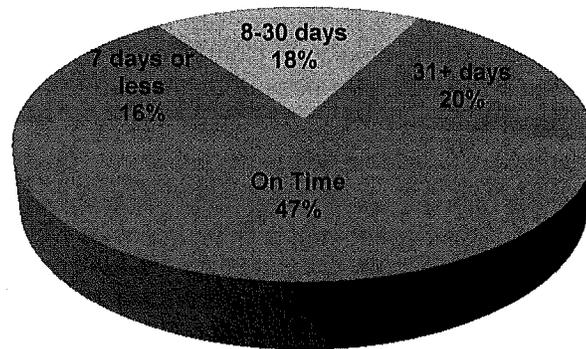
Exhibit 2 - Summary of Follow-Ups Closed in the First Half of Fiscal Year 2015-16			
Dept.	Issue Date	Document Title	Number of Recommendations Closed
ADM	10/8/14	City and County of San Francisco: Nine of Ten Selected Organizations Complied With the San Francisco Administrative Code, Chapter 12G, by Not Using City Funds for Political Activity	1
CAT	4/16/15	City Attorney: Controls Over Claims and Judgments Settlement Payments at the City Attorney Need Improvement	5
CMD	10/1/14	GSA: Fiscal Year 2012-13 Chapter 14B Audit - None of the Three Audited Contractors Fully Complied with Certain Provisions of the Local Business Enterprise Ordinance	16
DHR	3/13/13	Office of the Medical Examiner: The Office's Payroll Operations Are Generally Adequate, but Should Be Improved	3
DPH	3/27/14	Department of Public Health: Internal Controls at Laguna Honda Hospital's Central Supply Department Do Not Ensure That Assets Are Properly Accounted for and Safeguarded	21
DPW	4/16/14	Department of Public Works: Controls Over the Public Safety Building Project Should Be Strengthened to Improve Project Scheduling and the Change Management Process	11
MTA	1/31/13	San Francisco Municipal Transportation Agency: SFMTA Lacks Effective Controls Over Its Payroll Process and Timekeeping System for Transit Operators	25
OCA	10/20/14	Office of Contract Administration: Technology Store Vendors Do Not Always Abide by Contract Percentage Markup Limits, Resulting in Overcharges for Goods Purchased	20
PRT	2/5/15	Port Commission: Scoma's Restaurant, Inc., Had Inadequate Internal Controls Over the Reporting of Gross Receipts to the Port for 2011 Through 2013	2
PRT	2/5/15	Port Commission: BAE Systems San Francisco Ship Repair, Inc., Underpaid Rent by \$3,479 to the Port for 2011 Through 2013	1
REC	1/9/14	Recreation and Park Commission: The Beach Chalet, L.P., Owes the City \$53,208 for Paying Its Rent Late in 2009 Through 2011	18

The majority of department responses were received on time or within a week of the deadline. Departments are given two weeks to respond to CSA's follow-up requests, and extensions are granted upon request. If an extension is granted, timeliness is calculated based on the extended deadline.

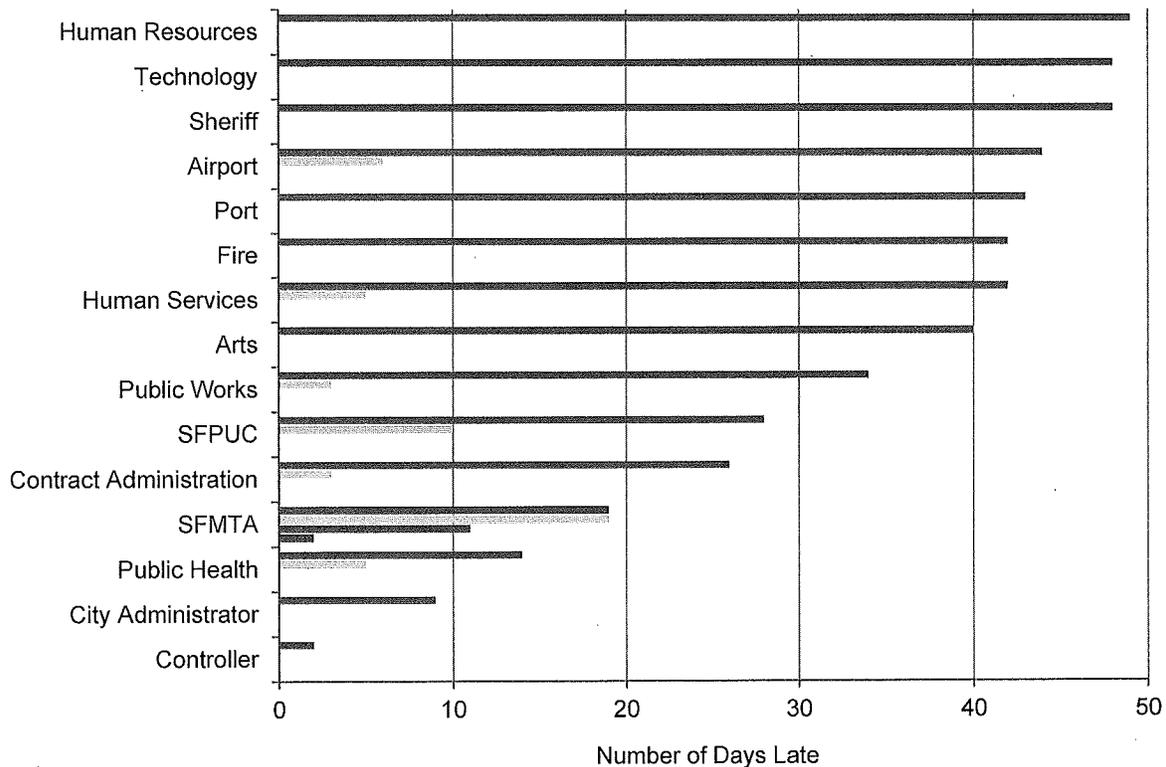
Exhibit 3 shows departments' responsiveness to CSA's follow-up requests.

Exhibit 3 - Timeliness of Departments' Responses to Follow-up Requests in the First Half of Fiscal Year 2015-16

Overall Timeliness



Timeliness of Departments With Late Responses

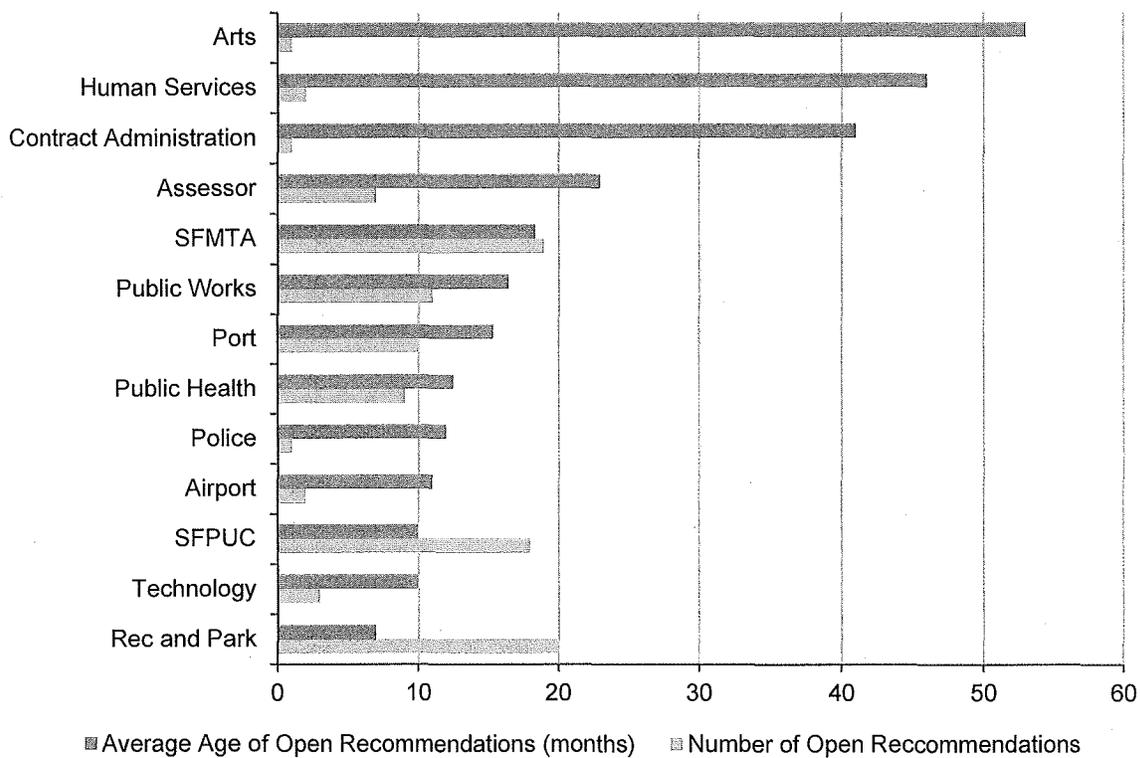


Note: Departments with more than one bar had more than one late response.

Although the majority of CSA’s recommendations are implemented within one year of their issuance, some remain outstanding for longer. The average age of the open recommendations is 21 months and ranges from 7 to 53 months. Four of the open recommendations, which belong to the Arts Commission, Human Services Agency, and Office of Contract Administration, are more than 40 months old. All other open recommendations are less than 24 months old.

Exhibit 4 shows the number of open recommendations by department and the average age of those recommendations.

Exhibit 4 – Number and Average Age of Open Recommendations Followed up on by Department



In some cases, a department has implemented few or none of CSA’s recommendations. This does not necessarily indicate that the department is not making an effort to resolve the underlying issues. In some instances, the department has not yet had the opportunity because the recommendations relate to events that happen only periodically, such as labor agreement negotiations, or because the recommendations were issued too recently for the department to have achieved full implementation. Exhibit 5 summarizes the reasons departments reported for not fully implementing the open recommendations.

Exhibit 5 - Summary of Open Reports for the First Half of Fiscal Year 2015-16				
Dept.	Issue Date	Report	Open Recs.	Reason(s) Reported
AIR	1/13/15	Airport Commission: Better Oversight Is Required to Improve the Change Management Process for the New Air Traffic Control Tower	2	The department is working with the City Attorney's Office to address one recommendation and is implementing a change management system to address the other.
ASR	12/31/13	Office of the Assessor-Recorder: Audit of the Department's Social Security Number Truncation Program	7	Full implementation requires conducting a competitive procurement, contracting for services, and reallocating funds. The department is performing these steps.
ART	7/12/11	San Francisco Arts Commission: The Street Artists Program Should Improve Its Internal Controls and Accounting Practices	1	The department is drafting a request for proposal for a website redesign that will address the open recommendation.
DPH	3/14/13	Department of Public Health: The Department's Siloed and Decentralized Purchasing Structure Results in Inefficiencies	1	The department is upgrading its systems and training staff to expand use of the system to Public Health locations outside the two hospitals, which will fully implement the recommendation.
DPH	2/19/15	Department of Public Health: Improved Controls Are Needed to Prevent Missing Billing Information and More Analysis and Monitoring Could Reduce Avoidable Revenue Adjustments	8	The department has a working group to develop improved billing processes, has partially implemented 7 of the recommendations, and expects full implementation in the near future after hiring a financial analyst.
DPW	5/20/14	City and County of San Francisco: Adopting Leading Practices Could Improve the City's Construction Contractor Bid Pool	11	A working group of stakeholders throughout the City is developing policies and procedures to evaluate contractors and integrate the results into award decisions.
DT	2/26/15	SFPUC: The Department Needs to Improve Its Management and Monitoring of Telephone Assets and Costs*	3	The department is assessing the feasibility of implementing one recommendation and expects to fully implement the others by 6/30/16.
HSA	2/29/12	Human Services Agency: The Department Can Better Use Global Positioning System Data to Improve Fleet Management	2	The department has partially implemented the recommendations and is working to develop additional policies to complete implementation.
MTA	7/17/12	San Francisco Municipal Transportation Agency: The Parking Enforcement Section Should More Effectively Manage Its Resources, Strengthen Some Internal Controls, and Improve the Efficiency of Its Operations	1	The department is evaluating a technology solution to address the recommendation. Pilot tests will last six months and then be evaluated.

Exhibit 5 - Summary of Open Reports for the First Half of Fiscal Year 2015-16				
Dept.	Issue Date	Report	Open Recs.	Reason(s) Reported
MTA	9/10/13	San Francisco Municipal Transportation Agency: The Agency Must Improve Staffing Planning and Training to Meet Its Need for Transit Operators	4	Full implementation requires completing a classification study, creating a new classification, and finalizing lease negotiations for a training space. The department is performing these steps.
MTA	4/24/14	San Francisco Municipal Transportation Agency: The Taxis and Accessible Services Division Needs to Better Manage Its Paratransit Contract and Improve Controls Over Its Taxi Complaint and Taxi Driver Permit Processes	2	The department expects to fully implement the final two recommendations in early 2016.
MTA	8/20/14	San Francisco Municipal Transportation Agency: City of San Francisco Uptown Parking Corporation Correctly Reported Sutter Stockton Garage Revenues and Expenditures for May 2011 Through April 2013 But Can Improve Controls Over Lease Management	3	The department expects to implement the recommendations by 6/30/16. Full implementation requires completing discussions with armored service vendors and completing policies and procedures.
MTA	8/20/14	San Francisco Municipal Transportation Agency: City of San Francisco Uptown Parking Corporation Correctly Reported Union Square Garage Revenues and Expenditures for May 2011 Through April 2013 But Can Improve Controls Over Lease Management	2	The department expects to implement the recommendations by 6/30/16. Full implementation requires finalizing a lease agreement and completing policies and procedures.
MTA	11/13/14	San Francisco Municipal Transportation Agency: Parking Meter Collections and Citation Fines Equal 96 Percent of Expected Parking Meter Revenue, Excluding \$31.1 Million in Forgone Revenue Given Various Legal Exemptions	5	The department is implementing technology solutions to address two of the recommendations.
MTA	11/17/14	San Francisco Municipal Transportation Agency: The Central Subway Project's Cost Reporting Practices Have Improved	1	The department expects to fully implement the recommendation in March 2016.
MTA	2/9/15	Citywide Payroll: Eleven Departments Incorrectly Paid Employees, Improperly Approved Time, or Did Not Comply With Citywide Policies and Procedures	1	The department is developing policies and procedures, which will fully implement the recommendation.

Exhibit 5 - Summary of Open Reports for the First Half of Fiscal Year 2015-16				
Dept.	Issue Date	Report	Open Recs.	Reason(s) Reported
OCA	6/28/12	Department of Public Health and the Office of Contract Administration: Audit of \$6 Million Citywide Konica Minolta Business Solutions USA, Inc. Contract	1	This recommendation is contested. The department does not concur with the recommendation and has chosen not to implement it.
POL	11/26/14	The Police Department Needs to Make Major Improvements to Its Payroll Process	1	The department reports recovering \$3,882 through offset deductions and is working to resolve one remaining exception.
PRT	8/5/14	Port Commission: The Port Should Strengthen Internal Controls Over Its Inventory	4	The department has partially implemented all of the recommendations and will fully implement them after it finishes reconciling its inventory.
PRT	9/17/14	Port Commission: Blue and Gold Fleet, L.P., Had Inadequate Internal Controls Over the Reporting of Gross Receipts to the Port for 2010 Through 2012	4	Discussions with Blue and Gold resulted in a proposed solution in September 2015. However, full implementation cannot occur until a new lease is signed.
PRT	9/17/14	Port Commission: Castagnola's Restaurant Had Inadequate Internal Controls Over the Reporting of Gross Receipts to the Port for 2010 Through 2012	2	Full implementation requires collecting money owed from Castagnola's. The department is in the process of doing so.
PUC	2/17/15	Audit of Department Class One Power Sales to Modesto and Turlock Irrigation Districts in California	11	The department is negotiating replacement agreements with both districts. The recommendations will be fully implemented when the agreements are final.
PUC	2/26/15	San Francisco Public Utilities Commission: The Department Needs to Improve Its Management and Monitoring of Telephone Assets and Costs*	7	Full implementation requires developing new monitoring procedures, better documenting current procedures, segregating duties, and cross training staff. The department is performing these steps.
REC	4/28/15	Recreation and Park Commission: Internal Controls Must Be Improved to Better Manage Inventory	20	The department is developing policies and procedures to address many of the open recommendations and expects completion by 6/30/16. A few recommendations will be implemented when the new financial system goes live in 2017.

* This report is listed twice because both DT and PUC have open recommendations.

CSA's Field Follow-Up Activity in the First Half of Fiscal Year 2015-16

Any audit report or memorandum may be selected for a more in-depth field follow-up regardless of summary status. Field follow-ups result in memorandums that are also subject to CSA's regular follow-ups.

Field Follow-Up Memorandums Issued		
Title: Airport Commission: Follow-up of 2012 Audit of the Airport's Terminal 2 Build-out Close-out Procedures		Issue Date: 7/21/2015
Recommendation Status	Number of Recommendations With Each Status	Recommendation Number(s) in Report
Recommendations in original report	21	--
Tested	21	All
Fully implemented	18	All others
No longer applicable or not feasible	3	1, 13, 14
Total	21	
<p>Original Issuance: <u>Airport Commission: The Airport Needs to Enhance Procedures Over Tenants' Build-out Close-out Compliance – 5/17/12</u></p> <p>Summary of Original Report: The Airport's procedure for collecting, reviewing, and tracking documentation and as-built drawings from tenants that support expenditures toward minimum investment amounts do not sufficiently ensure Terminal 2 tenants' compliance with build-out close-out requirements.</p> <p>Implemented Recommendations: <u>18 recommendations were fully implemented and are now closed.</u> The Airport fully implemented recommendations to: use consistent language in tenant lease agreements; collect adequate supporting documentation from current tenants to substantiate construction costs; develop and implement instructions requiring tenants to submit supporting documentation for the minimum investment amount that clearly substantiates construction costs; develop and implement procedures for setting consistent submission due dates, actively tracking the timeliness of submittals, and regularly reviewing the minimum investment amount supporting documentation; develop minimum investment amount calculations based on concession type and revise the basis to reflect trends in construction costs; ensure that all tenants submit as-built drawings in a timely manner and Airport staff promptly reviews as-built drawings.</p> <p>No Longer Applicable and Closed Recommendations: <u>3 recommendations were no longer applicable and are now closed.</u> Recommendation 1 is closed because the lease allows a waiver of the minimum investment amount requirement if the tenant complies with the Concessions Design Guidelines and receives the Design Review Committee's approval, which the two tenants in question did. Recommendation 13 is closed because the Airport has satisfactorily explained the business purpose for its occasional waiver of the minimum investment amount requirement. Recommendation 14 is closed because the Airport has revised the lease to permit submission of as-built drawings in Portable Document Format.</p>		

Field Follow-Up in Progress on 12/31/2015			
Audit or Assessment	Issuance Date of Original Report	Recommendations	Expected Issuance Date of Follow-up Memorandum
San Francisco Municipal Transportation Agency: The Sustainable Streets Division Could Improve Its Operations	6/9/11	38	3/10/16

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: CPUC Notification - Verizon Wireless - 2/24/16
Attachments: CPUC Notification - Verizon - 2-24-2016.pdf

From: West Area CPUC [mailto:WestAreaCPUC@VerizonWireless.com]
Sent: Wednesday, February 24, 2016 12:26 PM
To: Masry, Omar (CPC) <omar.masry@sfgov.org>; Administrator, City (ADM) <city.administrator@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: West Area CPUC <WestAreaCPUC@VerizonWireless.com>
Subject: CPUC Notification - Verizon Wireless - 2/24/16

This is to provide your agency with notice according to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC"). This notice is being provided pursuant to Section IV.C.2.

If you prefer to receive these notices by US Mail, please reply to this email stating your jurisdiction's preference.

Thank You



February 24, 2016

Ms. Anna Hom
Consumer Protection and Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
alh@cpuc.ca.gov

RE: Notification Letter for Various Verizon Wireless Facilities
San Francisco-Oakland, CA / GTE Mobilnet of California Limited Partnership / U-3002-C

This is to provide the Commission with notice according to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") for the projects described in Attachment A.

A copy of this notification letter is also being provided to the appropriate local government agency for its information. Should there be any questions regarding this project, or if you disagree with any of the information contained herein, please contact the representative below.

Sincerely,

Melinda Salem
Engr IV Spec-RE/Regulatory
15505 Sand Canyon Avenue, Irvine, CA 92618
WestAreaCPUC@VerizonWireless.com

CPUC Attachment A

Initial Build (new presence for Verizon Wireless)

WIRELESS PLANNER	CITY ADMINISTRATOR	CLERK OF THE BOARD	COUNTY
Omar.Iwasrv@sfgov.org	city.administrator@sfgov.org	Board.of.Supervisors@sfgov.org	San Francisco

Site APN	Site Coordinates (NAD 83)	Project Description	Number & type of Antennas	Tower Design	Tower Appearance	Tower Height (in feet)	Size of Building or NA	Type of Approval	Approval Issue Date	Approval Effective Date	Approval Permit Number	Resolution Number
N/A - public right-of-way	37 46 22.59 N, 122 25 6.31 W	Install new telecommunications facility on an existing PGE brown pole in the public right of way. Installation involves: (1) Amphenol CWS070X06 antenna, (2) mRRUs, (1) electrical meter, (1) disconnect switch, and (2) fiber diplexors on existing brown PGE pole in the public right of way	1 cylindrical antenna	PGE brown pole	PGE brown pole (RAD of 31'-5")	32'-5"	N/A	Wireless Box Permit	4/23/2015	5/23/2015	15WR-0313	N/A
N/A - public right-of-way	37 46 13.94 N, 122 25 11.7 W	Install new telecommunications facility on an existing PGE brown pole in the public right of way. Installation involves: (1) Amphenol CWS070X06 antenna, (2) mRRUs, (1) electrical meter, (1) disconnect switch, and (2) fiber diplexors on existing brown PGE pole in the public right of way	1 cylindrical antenna	PGE brown pole	PGE brown pole (RAD of 31'-10")	32'-10"	N/A	Wireless Box Permit	4/23/2015	5/23/2015	15WR-0315	N/A
N/A - public right-of-way	37 46 24.29 N, 122 24 58.2 W	Install new telecommunications facility on an existing PGE brown pole in the public right of way. Installation involves: (1) Amphenol CWS070X06 antenna, (2) mRRUs, (1) electrical meter, (1) disconnect switch, and (2) fiber diplexors on existing brown PGE pole in the public right of way	1 cylindrical antenna	PGE brown pole	PGE brown pole (RAD of 32'-6")	33'-6"	N/A	Wireless Box Permit	4/23/2015	5/23/2015	15WR-0478	N/A

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: CPUC Notification - Verizon Wireless - SF UM SC249A
Attachments: CPUC Notification - Verizon - SF UM SC249A.pdf

From: West Area CPUC [mailto:WestAreaCPUC@VerizonWireless.com]
Sent: Wednesday, February 24, 2016 11:55 AM
To: Masry, Omar (CPC) <omar.masry@sfgov.org>; Administrator, City (ADM) <city.administrator@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: West Area CPUC <WestAreaCPUC@VerizonWireless.com>
Subject: CPUC Notification - Verizon Wireless - SF UM SC249A

This is to provide your agency with notice according to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC"). This notice is being provided pursuant to Section IV.C.2.

If you prefer to receive these notices by US Mail, please reply to this email stating your jurisdiction's preference.

Thank You



February 24, 2016

Ms. Anna Hom
Consumer Protection and Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
alh@cpuc.ca.gov

RE: Notification Letter for SF UM SC249A
San Francisco-Oakland, CA / GTE Mobilnet of California Limited Partnership / U-3002-C

This is to provide the Commission with notice according to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") for the project described in Attachment A.

A copy of this notification letter is also being provided to the appropriate local government agency for its information. Should there be any questions regarding this project, or if you disagree with any of the information contained herein, please contact the representative below.

Sincerely,

Melinda Salem
Engr IV Spec-RE/Regulatory
15505 Sand Canyon Avenue, Irvine, CA 92618
WestAreaCPUC@VerizonWireless.com



CPUC Attachment A

Initial Build (new presence for Verizon Wireless)

ISSUER	CITY ADMINISTRATOR	CLERK OF THE BOARD	COUNTY
City@ca	city.administrator@sfgov.org	Board.of.Supervisors@sfgov.org	San Francisco

Project ID	Site Coordinates (NAD 83)	Project Description	Number & type of Antennas	Tower Design	Tower Appearance	Tower Height (in feet)	Size of Building or NA	Type of Approval	Approval Issue Date	Approval Effective Date	Approval Permit Number	Resolution Number
15WR-0147	37°47'10.89"N 122°25'11.01"W	Installation of one 7.5" diameter x 24" tall canister antenna, two 16.5" x 9.8" x 5.7" MRRU's on to (28'-10" AGL) SFPUC steel pole.	1 panel antenna	Existing PUC streetlight pole	Panel antenna @ 30'-7" RAD	31'-7" AGL	N/A	Personal Wireless Service Facility Permit	2/11/2016	3/10/2016	15WR-0147	N/A

BOS-11
File 160137

From: Fannon, Una (MYR)
Sent: Tuesday, February 23, 2016 8:43 AM
To: BOS-Supervisors
Cc: BOS-Legislative Aides; Elliott, Jason (MYR); Elliott, Nicole (MYR)
Subject: Letter from Mayor Lee regarding Inclusionary Housing
Attachments: BOS 2.23.16.pdf; Economic Study.docx

Dear Supervisors,

Please see attached from Mayor Lee.

Kind regards,

Una

Una Fannon
Special Assistant to Mayor Lee
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA
Tel: 415.554.6910
Email: una.fannon@sfgov.org



February 22, 2016

President London Breed
Members, Board of Supervisors
San Francisco City Hall
1 Dr. Carlton B. Goodlett Pl
San Francisco, CA 94102

Dear President Breed & Supervisors:

I write to you regarding File No. 151274, a Charter Amendment to change San Francisco's inclusionary housing program.

I adamantly agree with the sponsors of this measure that our affordable housing obligations are set too low, and we should be requiring market-rate developers to provide significantly more inclusionary housing than they do currently. The ballot measure you're considering, however, does not maximize housing affordability in San Francisco because it does not include an economic feasibility analysis and a requirement to regularly study the housing market.

I strongly suggest that the Board consider straight-forward amendments to this Charter Amendment to ensure that San Francisco will always receive the maximum amount of affordable housing from developers without inadvertently diminishing the amount of new housing provided in our City, and in turn, protect thousands of union construction and building trades jobs that result from the production of new housing.

This can be accomplished by instituting an independent, objective, and recurring analysis of the City's housing market, and setting inclusionary housing rates every few years that maximize the amount of affordable housing we receive from private developers.

I have heard much discussion of this concept in Board committees, and I've spoken with a number of Supervisors directly about their support for ongoing feasibility analysis, so it should come as no surprise. I urge you to adopt the attached amendments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edwin M. Lee".

Edwin M. Lee
Mayor

(x) Analysis.

(1) The Board of Supervisors shall receive and consider a report from the Controller analyzing of the impacts of the Interim inclusionary or affordable housing obligations set in subsection (g) to ensure that requirements are set appropriately to maximize housing affordability in San Francisco. The analysis shall be performed by December 31, 2016. The report shall be accompanied by specific recommendations from the Controller for legislative amendments to San Francisco's inclusionary or affordable housing obligations to maximize housing affordability.

(2) The Controller's Office shall repeat this analysis every 36 months, or as often as the Controller deems necessary. Future reports shall be accompanied by specific recommendations from the Controller for legislative amendments to San Francisco's inclusionary or affordable housing obligations to maximize housing affordability.

(x) Future Legislation.

The Board of Supervisors shall pass legislation necessary to conform inclusionary or affordable housing obligations to the findings of the report detailed in subsection (h)(1) as soon as practicable after the effective date of this Section, but no later than March 31, 2017, and within three months of future reports pursuant to subsection (h)(2).

To: BOS Legislation (BOS); Somera, Alisa (BOS); Evans, Derek
Subject: FW: Items 151274 & 160137; Inclusionary Housing Charter Amendment

From: Calvillo, Angela (BOS)
Sent: Tuesday, February 23, 2016 8:08 PM
To: Gosiengfiao, Rachel (BOS) <rachel.gosiengfiao@sfgov.org>
Subject: FW: Items 151274 & 160137; Inclusionary Housing Charter Amendment

Cpages & file

From: abledart@gmail.com [mailto:abledart@gmail.com] **On Behalf Of** Mike Ege
Sent: Tuesday, February 23, 2016 11:15 AM
To: Mar, Eric (BOS) <eric.mar@sfgov.org>; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Breed, London (BOS) <london.breed@sfgov.org>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; Wiener, Scott <scott.wiener@sfgov.org>; Campos, David (BOS) <david.campos@sfgov.org>; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Avalos, John (BOS) <john.avalos@sfgov.org>
Cc: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>
Subject: Items 151274 & 160137; Inclusionary Housing Charter Amendment

Greetings:

San Francisco has tried to regulate housing affordability through the regulation of housing supply in one form or another for more than half a century; it hasn't worked. Supply constraints have instead made the city much more expensive to live in. This is an issue that affects all of us. Friends, members of our families, people that we work with (take for instance your legislative aides), are being affected by this RIGHT NOW.

Rather than mandate percentages, The quickest and easiest way to produce more units of affordable housing is – what a surprise – produce more units of affordable housing. With inclusionary housing, that can be done by approving more eligible projects. Moreover, a healthier housing market with adequate supply will ensure that today's "luxury housing" will eventually become affordable to lower incomes in future generations.

Meanwhile, 100% of zero is zero. 25% of zero is zero. By concentrating on percentages instead of the total number of possible affordable units, you may very well end up with no affordable units at all.

I suspect that there are times when the public speculates about the true motives of those who propose raising thresholds to the point where they no longer mean anything, or become counterproductive.

Some say that this proposed charter amendment is in fact a poison pill; that its true intent is not to create more affordable units, but to preserve the priorities and budget pie slices of the most influential members of the Council of Community Housing Organizations. They of course should really be lobbying for a bigger pie. After all, everyone loves more pie.

Unfortunately, from appearances, it looks instead like their outlook is 50 years behind the times, both politically and economically. The reality is that the rules have changed; limited-good-based arguments don't cut it anymore. Neither does political reciprocity with NIMBYs.

Certainly, we hope that all this is not the case; but again, ask yourselves with this really looks like.

Sometimes appearances are just as important as intentions.

Regards,

Mike Ege
mike@frisko.org

PSNS, Opage
Clerk

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2016 FEB 24 AM 10:46

~~FILE~~

12/16/2015

Attn: California Alcoholic Beverage Control
33 New Montgomery Street, Ste. 1233
San Francisco, CA. 94102

Re: Type 48 Application [Expanding Square Footage of an Already Licensed Premise]

1092 Post Street, 1104 Polk Street. dba Jackalope
San Francisco, CA. 94109

Attn: California Alcoholic Beverage Control, and San Francisco Board of Supervisors-

Lower Polk is a changing neighborhood and we've been a part of that positive transition over the past year. We've done two basic things to make that happen:

First, we've added regular, well-trained security, who are quick to diffuse situations and move along troublesome people likely to engage in criminal or otherwise negative behavior. We also have multiple visible security cameras outside to a) help police in case there is a crime and b) discourage criminals from acting out because they see the cameras there.

Second, we've changed the demographic by altering the music, refusing to serve problematic people, and a variety of other measures. Our demographic is one that is unlikely to engage in crime, and quick to report problems to our security to ensure that Jackalope continues to be a safe, welcoming place for people to hang out.

We've been so successful with these tactics that we've even had police officers stop by on several occasions to tell us how happy they are with the change we've brought to the neighborhood.

Even with all of our efforts, we still have some safety concerns that expansion would solve:

The current business in the space we would like to expand into is a payday loan location, which has attracted a crowd that can be difficult to deal with for a variety of reasons. For example, certain people that stand outside of that business are regularly offering drugs to anyone who walks by, which may be targeting the customer base, or it may be because that business is

8

160184

closed at 6 pm, which allows people to stand out front for much of the night with little interference. Allowing us to move into that space and implement the same security and customer measures we have at Jackalope would discourage that crowd from engaging in criminal behavior at that location. We are confident that regularly having security people at two businesses (in addition to cameras) directly next to each other later into the night would help deter a substantial amount of crime in the area.

Additionally, as we've grown more popular, capacity has become more of a concern, and adding an additional exit would solve that problem. Allowing us to expand would ensure more space for our customers, allow us to get customers out easier and more safely at closing, and, most importantly, would add an exit in case there were ever a need for an emergency evacuation.

Hours of Operation: 12:PM to 2:AM

Kind Regards,



Cory Hunt, Owner
Jackalope

916. 601.1782

cohunt@gmail.com

Jim Saxton, Liquor Licenses of San Francisco Bay Area

925. 689.6766

sfliquorlicenses@gmail.com

David J. Villa-Lobos, CLA Consulting

415. 921.4192

admin@communityleadershipalliance.net

NOTICE OF INTENTION TO ENGAGE IN THE SALE OF ALCOHOLIC BEVERAGES

ABC-207-E (9/05)

To the Resident or Owner of Real Property Within a 500' Radius:

The applicant(s) for an alcoholic beverage license must mail this notice to every resident of real property within a 500 foot radius of the premises (Section 23985.5 of the Business and Professions Code). The applicant must mail this notice within 15 days of posting the premises. Any protest against the issuance of the license(s) must be received at any office of the Department of Alcoholic Beverage Control (ABC) or Departmental Headquarters within 30 days of the date the premises are posted, or within 30 days of the mailing of this notification, whichever is later. To obtain a copy of the protest form, ABC-510-A, please contact your local ABC office or go online to www.abc.ca.gov.

Date of Mailing: 2/2/2016 Date Premises Posted: 1/27/2016

The below-named applicant(s) has applied for a license to sell alcoholic beverages at:

1092 Post St. Including 1104 Polk St. San Francisco CA 94109

Type of license(s) applied for:

48 On-Sale General Public Premises

The name(s) of the applicant(s) is/are:

Real Drinks Inc

The dba (doing business as) is (if known):

Jackalope

Further information regarding this application or filing a protest may be obtained at:

Department of Alcoholic Beverage Control

33 New Montgomery St
Ste 1230
San Francisco CA 94105-4509
(415)356-6500

Los residentes o dueños que no hablen inglés por favor vean al reverso para mayor información.

非英語語系的居民或所有人，請參見背面資訊。

영어 구사 불가능 주민/소유주는 내용 확인을 위해 뒤면을 참조하십시오.

Cư dân/sở hữu chủ nào không nói tiếng Anh, xin xem mặt sau để biết chi tiết.

المقيمين/المالكين الذين لا يتكلمون اللغة الإنكليزية، رجاء مراجعة الصفحة الخلفية للحصول على المعلومات.

**INFORMATION AND INSTRUCTIONS -
SECTION 23958.4 B&P**

- Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
 - Part 2 is to be completed by the applicant, and returned to ABC.
 - Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME

Real Drinks Inc

2. PREMISES ADDRESS (Street number and name, city, zip code)

1092 Post St. Including 1104 Polk St. San Francisco CA 94109

3. LICENSE TYPE

48

4. TYPE OF BUSINESS

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Full Service Restaurant | <input type="checkbox"/> Hofbrau/Cafeteria | <input type="checkbox"/> Cocktail Lounge | <input type="checkbox"/> Private Club |
| <input type="checkbox"/> Deli or Specialty Restaurant | <input type="checkbox"/> Comedy Club | <input type="checkbox"/> Night Club | <input type="checkbox"/> Veterans Club |
| <input type="checkbox"/> Cafe/Coffee Shop | <input type="checkbox"/> Brew Pub | <input type="checkbox"/> Tavern: Beer | <input type="checkbox"/> Fraternal Club |
| <input type="checkbox"/> Bed & Breakfast: | <input type="checkbox"/> Theater | <input type="checkbox"/> Tavern: Beer & Wine | <input type="checkbox"/> Wine Tasting Room |
| <input type="checkbox"/> Wine only <input type="checkbox"/> All | | | |

- | | | | |
|---|--|--|--|
| <input type="checkbox"/> Supermarket | <input type="checkbox"/> Membership Store | <input type="checkbox"/> Service Station | <input type="checkbox"/> Swap Meet/Flea Market |
| <input type="checkbox"/> Liquor Store | <input type="checkbox"/> Department Store | <input type="checkbox"/> Convenience Market | <input type="checkbox"/> Drive-in Dairy |
| <input type="checkbox"/> Drug/Variety Store | <input type="checkbox"/> Florist/Gift Shop | <input type="checkbox"/> Convenience Market w/Gasoline | |
| <input type="checkbox"/> Other - describe: | | | |

5. COUNTY POPULATION

845,602

6. TOTAL NUMBER OF LICENSES IN COUNTY

275

On-Sale Off-Sale

7. RATIO OF LICENSES TO POPULATION IN COUNTY

On-Sale Off-Sale

8. CENSUS TRACT NUMBER

120

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT

13

On-Sale Off-Sale

10. NO. OF LICENSES EXISTING IN CENSUS TRACT

26

On-Sale Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

- Yes, the number of existing licenses exceeds the number allowed
- No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

- Yes (Go to Item #13) No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER

541

14. TOTAL NUMBER OF REPORTING DISTRICTS

653

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

53,160

16. AVERAGE NO. OF OFFENSES PER DISTRICT

81

17. 120% OF AVERAGE NUMBER OF OFFENSES

97

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

725

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)

- Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17
- No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

- a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.
- b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name:

Board of Supervisors

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

willie bulanadi

PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documentation, if desired. Do *not* proceed to Part 3.

See Attached

22. APPLICANT SIGNATURE

SA

23. DATE SIGNED

1/27/2016

PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24. WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?

Yes

No

See Attached (i.e., letter, resolution, etc.)

25. ADDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity):

26. CITY/COUNTY OFFICIAL NAME

27. CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29. CITY/COUNTY OFFICIAL SIGNATURE

30. DATE SIGNED

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: I'm the 4,183rd signer: "Stop SFMTA (San Francisco Municipal Transportation Agency)"

From: Marianne DeSnoo [mailto:petitions-noreply@moveon.org]
Sent: Tuesday, February 23, 2016 8:02 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: I'm the 4,183rd signer: "Stop SFMTA (San Francisco Municipal Transportation Agency)"

Dear San Francisco Board of Supervisors,

I just signed a petition addressed to you titled *Stop SFMTA (San Francisco Municipal Transportation Agency)*. So far, 4,183 people have signed the petition.

You can reach me directly by replying to this email. **Or, post a response for MoveOn.org to pass along to all petition signers by clicking here:** http://pac.petitions.moveon.org/target_talkback.html?tt=tt-23483-custom-54063-20260223-UMpUo2

The petition states:

"As residents and taxpayers of San Francisco we believe that the SFMTA's first and foremost responsibility is to improve MUNI and to make MUNI a more desirable means of transportation. It is not SFMTA's job to make owning and driving a motor vehicle more expensive and difficult. The SFMTA needs to be accountable to all the citizens of San Francisco. We need a balanced, unbiased municipal transportation policy. We respectfully request that the Mayor and District Supervisors immediately stop the SFMTA from: 1. Installing new parking meters and extending the hours of enforcement 2. Enforcing Sunday parking meters 3. Increasing meter rates, fees and fines "

My additional comments are:

Parking is outrageous! We live here. We work. We pay taxes. We need to drive to work from our neighborhood. An hour commute at best, each way, is not acceptable. When I worked downtown, I walked to BART. Now I commute to the outer Richmond and there is no way that I'm going to take the bus. I should be able to get anywhere within our 7 x 7 space in no time.

To download a PDF file of all of your constituents who have signed the petition, including their addresses, click this link: http://petitions.moveon.org/deliver_pdf.html?job_id=1738406&target_type=custom&target_id=54063

To download a CSV file of all of your constituents who have signed the petition, including their addresses, click this link: http://petitions.moveon.org/deliver_pdf.html?job_id=1738406&target_type=custom&target_id=54063&csv=1

Marianne DeSnoo
San Francisco, CA

BOS-11

Commissioners
Eric Sklar, President
Saint Helena
Jacque Hostler-Carmesin, Vice President
McKinleyville
Anthony C. Williams, Member
Huntington Beach
Vacant, Member
Vacant, Member

STATE OF CALIFORNIA
Edmund G. Brown Jr., Governor

Mike Yaun, Acting Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
www.fgc.ca.gov

Fish and Game Commission



Wildlife Heritage and Conservation
Since 1870

February 19, 2016

NOTICE OF PROPOSED EMERGENCY ACTION

Incidental Take of Tricolored Blackbird (*Agelaius tricolor*) During Candidacy Period

RECEIVED 23 FEB 23 2:30 PM

Pursuant to the requirements of Government Code Section 11346.1(a)(1), the Fish and Game Commission (Commission) is providing notice of proposed emergency action with regards to the above-entitled emergency regulation.

SUBMISSION OF COMMENTS

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail or e-mail, relevant to the proposed emergency regulatory action. Written comments submitted via U.S. mail or e-mail must be received at OAL within five days after the Commission submits the emergency regulations to OAL for review.

Please reference submitted comments as regarding "Tricolored Blackbird" addressed to:

Mailing Address: Reference Attorney
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

California Fish and Game Commission
Attn: Sheri Tiemann
1416 Ninth Street, Room 1320
Sacramento, CA 95814

E-mail Address: staff@oal.ca.gov

fgc@fgc.ca.gov

Fax No.: 916-323-6826

For the status of the Commission's submittal to OAL for review, and the end of the five-day written submittal period, please consult OAL's website at <http://www.oal.ca.gov> under the heading "Emergency Regulations."

FISH AND GAME COMMISSION STATEMENT OF EMERGENCY ACTION

Emergency Action to Add Section 749.8, Title 14, CCR,
Re: Special Order Relating to Incidental Take of Tricolored Blackbird (*Agelaius tricolor*)
During Candidacy Period

I. Introduction

The Fish and Game Commission (Commission) is the decision-making body that implements the California Endangered Species Act (CESA) (Section 2050 et seq. of the Fish and Game Code (FGC)). As described in greater detail below, CESA authorizes the Commission to establish lists of threatened and endangered species, and to add or remove species from those lists if it finds, upon receipt of sufficient scientific information, that the action is warranted. Pursuant to Section 2084, FGC, the Commission may authorize, subject to the terms and conditions it prescribes, the taking of any candidate species while the Department of Fish and Wildlife (Department) and Commission evaluate whether the species should be listed as threatened or endangered under CESA.

On December 10, 2015, the Commission considered the adoption of findings designating tricolored blackbird as a candidate species under CESA. The Commission has prepared this Statement of Emergency Action under the Administrative Procedure Act (APA) (Gov. Code Section 11340 et seq.) in connection with its subsequent adoption of Section 749.8 of Title 14 of the California Code of Regulations (CCR). The Commission's adoption of Section 749.8 as an emergency action under APA is based, in part, on authority provided by FGC sections 240 and 2084. Pursuant to FGC Section 2084, CCR Section 749.8 will authorize incidental "take" of tricolored blackbird during candidacy, subject to certain terms and conditions prescribed by the Commission. (See generally FGC, sections 2080, 2084, 2085 and 86.)

As set forth below, the Commission designated tricolored blackbird as a candidate species under CESA and finds that adopting Section 749.8 pursuant to FGC sections 240 and 2084 constitutes a necessary emergency action by the Commission under APA. In the absence of this emergency regulation, individuals engaging in activities authorized pursuant to Section 749.8 would need to obtain an incidental take permit (ITP) or other authorization from the Department on a project-by-project basis to avoid potential criminal liability for violating CESA. Issuing individual ITPs authorizing incidental take is a complicated and lengthy process, and the Commission finds specifically that it is not feasible for the regulated community to obtain, and the Department to issue, ITPs or other authorizations on a project-by-project basis for the numerous activities that would otherwise be prohibited during the candidacy period for tricolored blackbird.

Historically, tricolored blackbirds nested in native flora in or adjacent to wetlands in the Central Valley and elsewhere across the State of California. Concomitant with the loss

of wetlands during the 19th and 20th centuries, tricolored blackbirds have adapted to nest in varied substrates. For example, grain fields planted for winter silage on dairy farms provide attractive nesting sites for the species; unfortunately, nesting occurs at about the same time the crops are scheduled for harvest.

For the past decade, a patchwork of funding sources has been used to pay farmers for a lost crop when they agree to delay harvest until after tricolored blackbird nesting is complete. In some cases, particularly where funding was unavailable or farmers were not aware of the potential for funding to offset losses, harvest has occurred before the young fledged. Recently, the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) committed to provide multiple years of funding to support a program to delay harvest of fields in which tricolored blackbird colonies have nested. At the same time, Dairy Cares, an organization composed of dairy businesses across California, in coordination with other farming interests has initiated an active campaign to educate dairy farmers about tricolored blackbird and the NRCS-funded program. In 2015, through a coordinated effort including NRCS, farming interests, the Department, and Audubon California, dairy farmers enrolled in the NRCS program delayed harvest on fields where an estimated 67,000 tricolored blackbirds nested.

NRCS funds compensate a farmer for about 85 percent of the value of a crop lost by a harvest delay. Under the NRCS program, a colony is identified and the area inhabited by the colony is delineated by a biologist. Once the colony is delineated, a buffer is established and the farmer is allowed to harvest only those fields outside the colony site and buffer area. Delaying harvest protects the vast majority of the colony until the birds fledge, but it does not guarantee that no take will occur. The tricolored blackbird was designated as a candidate for listing, and is therefore subject to the regulatory protections provided by CESA. Promulgating a regulation to authorize incidental take provides farmers assurances that if they agree to follow the requirements imposed by NRCS, delay harvest, and protect the colony nesting in their field, they will not be penalized in the event a small number of birds are taken incidental to their beneficial conservation actions in delaying harvest and otherwise lawful agricultural activities.

The harvest management programs administered by NRCS and the Department can be expected to protect tens of thousands of nesting tricolored blackbirds provided farmers are incentivized to participate. However, the designation of the tricolored blackbird as a candidate for listing under CESA could inhibit participation in the harvest management programs. This regulation, in combination with funding from NRCS, will provide farmers with a strong incentive to participate in the harvest management program.

Tricolored blackbird nesting can begin as early as February. The timing of this nesting relative to the candidacy determination provides inadequate time for the Commission to comply with the normal APA process for adopting a regulation to authorize take. It is only possible to put a regulation in place to conserve nesting tricolored blackbirds and protect farmers that enroll in one of the harvest management programs in 2016 through emergency action. Such action will effectuate the purposes of Fish and Game Code Section 2084 and CESA more broadly.

Absent this regulation, enrollment in the NRCS program may decline. Furthermore, farmers may elect to plant lower value crops that do not provide nesting habitat for tricolored blackbird, thereby decreasing available nesting habitat; farmers may harvest their crop early before onset of the nesting season, which would decrease the value of the crop and also decrease available nesting habitat; or farmers may risk harvesting their crop even if tricolored blackbird are present.

Without this emergency regulation, prospective permittees, many of whom already have the necessary entitlements to proceed with their approved projects, would be subject to CESA's take prohibition without, by any reasonable measure, an ability to obtain the necessary state authorization during the candidacy period. As a practical matter, activities that result in the take of tricolored blackbird would be prohibited and could not be implemented pending final action by the Commission on the listing petition, an action whereby tricolored blackbird may or may not be listed as endangered or threatened under CESA. As a result, many projects that are planned or underway that provide great economic and other benefits to the permittees, their employees, their local communities, and the State of California would be postponed during the candidacy period or canceled entirely. The Commission finds this threatened result constitutes an emergency under APA requiring immediate action.

II. Background

On October 8, 2014, the Commission received a petition from the Center for Biological Diversity to take emergency action to list the tricolored blackbird (*Agelaius tricolor*) as endangered under CESA. On December 3, 2014, the Commission listed tricolored blackbird as endangered through emergency regulations that expired on June 30, 2015. In the interim, the Department prepared and submitted to the Commission a petition evaluation as required by CESA. The petition evaluation was received by the Commission at its April 9, 2015, meeting and on June 11, 2015, the Commission made a decision that listing tricolored blackbird as endangered was not warranted.

On August 19, 2015, the Center for Biological Diversity submitted a petition that was largely the same as the petition submitted to the Commission on October 8, 2014, to take emergency action to list the tricolored blackbird as an endangered species. The petition included an addendum composed of two new relevant studies on the tricolored blackbird. On December 10, 2015, the Commission adopted findings designating the tricolored blackbird as a candidate species under CESA.

III. Facts Constituting the Need for Emergency Action

APA defines an "emergency" to mean "a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare." (Gov. Code Section 11342.545.). To make a finding of emergency, the agency must describe the specific facts supported by substantial evidence that demonstrate the existence of an emergency and the need for immediate adoption of the proposed regulation. (Gov. Code Section 11346.1(b)(2).). Some factors an agency may consider in determining

whether an emergency exists include: (1) the magnitude of the potential harm, (2) the existence of a crisis situation, (3) the immediacy of the need, i.e., whether there is a substantial likelihood that serious harm will be experienced unless immediate action is taken, and (4) whether the anticipation of harm has a basis firmer than simple speculation. The Commission has considered all of these factors and the definition of an emergency provided in APA, as well as pertinent authority in FGC Section 240. Under this latter authority, notwithstanding any other provision of FGC, the Commission may adopt an emergency regulation where doing so is necessary for the immediate conservation, preservation, or protection of fish and wildlife resources, or for the immediate preservation of the public general welfare.

The Commission finds that such necessity exists in the present case. Specifically, the Commission finds that:

- A failure to adequately protect the tricolored blackbird would cause serious harm to the general welfare of the citizens of the State of California.
- Action is necessary to ensure the protection and immediate conservation of the tricolored blackbird during the upcoming harvest of grain fields planted for silage.
- This finding is based on the record before the Commission, generally and specifically the past activity under the Natural Resources Conservation Service program and the timing of the candidacy of the tricolored blackbird in relation to the upcoming harvest.

Section 749.8 authorizes incidental take of the tricolored blackbird during candidacy for three categories of activities:

- Actions to protect, restore, conserve or enhance habitat.
- Actions to monitor tricolored blackbird breeding colonies.
- Harvest of grain crops under a harvest management program to protect colonies.

The regulation authorizes take, as defined by FGC Section 86, of tricolored blackbird in the limited circumstances described below subject to certain terms and conditions, during the species' candidacy under CESAFGC.

(a) Take Authorization.

1. Actions to Protect, Restore, Conserve, or Enhance Habitat.

Subsection 749.8(a)(1), authorizes take of the tricolored blackbird incidental to otherwise lawful activity, where the purpose of the activity is to protect, restore, conserve, or enhance habitat for a species designated as an endangered, threatened, or candidate species under state or federal law.

Without Section 749.8, subsection (a)(1), take of the tricolored blackbird incidental to otherwise lawful activities to protect, restore, conserve, or enhance habitat for a species designated as an endangered, threatened, or candidate species under state or federal law would require authorization by the Department through an individual ITP which is a lengthy, complicated process. Ongoing and planned activities to protect, restore, conserve, or enhance habitat are critical during this candidacy period. The status of many listed species is precarious, and even the slightest delay in initiated or continued implementation of any related conservation actions could adversely affect or otherwise cause further decline of these species. In addition, any further decline in the status of listed species will lead to increased costs to the Department because more resources will be required to get the species to the point where protective measures are no longer necessary. Increased cost will also be shouldered by prospective permittees, who will be charged with funding the mitigation and related monitoring required for the impacts of their project on the species.

Adoption of this emergency regulation would minimize the hardships that would be caused by delays in ongoing or new lawful activities to protect, restore, conserve, and enhance the habitat of state or federally threatened or endangered species (including the tricolored blackbird). The Commission finds that impacts to activities to protect, restore, conserve, or enhance habitat of state or federally threatened or endangered species caused by designating the tricolored blackbird as a candidate species, constitute an emergency under the APA requiring immediate action.

(2) Actions to Monitor Tricolored Blackbird Breeding Colonies.

Section 749.8, subsection (a)(2), authorizes take of tricolored blackbird incidental to efforts to monitor active tricolored blackbird breeding colonies, including entering colonies to perform walking transects. Only trained observers who are approved by the Department will be authorized to engage in such monitoring.

Without Section 749.8, subsection (a)(2), there would not be the necessary monitoring to ensure the protection and immediate conservation of tricolored blackbird during the upcoming harvest of grain fields planted for silage. Department guidance suggests that walking survey transects through a portion of the colony could be used to estimate the nesting stage of breeding colonies and inform decisions that must be made to comply with subsection (a)(3).

(3) Harvest of Grain Crops under a Harvest Management Program to Protect Colonies.

Section 749.8, subsection(a)(3), authorizes take of tricolored blackbird incidental to harvest of grain fields and related agricultural activities where an individual participates in a harvest management program administered by the Natural Resources Conservation Service (NRCS), or harvest management program administered or approved by the Department; the harvest management program shall include the establishment of a buffer zone and harvest date as described in the document "California Department of Fish and Wildlife (Department) Staff Guidance Regarding

Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015” (adopted on March 19, 2015 and available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=99310&inline>). The individual seeking authorization for take incidental to harvest of grain fields and related agricultural activities shall receive written confirmation of participation in the harvest management program and must obtain specific authorization for the timing of harvest and related agricultural activities from NRCS, the Department, or a biologist authorized by the Department or NRCS before proceeding with any harvest activities that take tricolor blackbirds

Without Section 749.8, subsection (a)(3), enrollment in the NRCS program may decline, which is necessary to ensure the protection and immediate conservation of the tricolored blackbird during the upcoming harvest of grain fields planted for silage.

(b) Reporting.

Section 749.8, subsection (a)(2), requires that any person, individual, organization, or public agency, or their agents, for which incidental take of tricolored blackbirds is authorized pursuant to subsections (a)(1) and (a)(3), shall report observations and detections of tricolored blackbird colonies, including take, to the Department’s Wildlife Branch by August 1 during the candidacy period.

As discussed in III above, it is vital that during this candidacy period detections and observations of the tricolored blackbird be reported to the Department so it can have the most complete information possible as it prepares its recommendation to the Commission on whether to recommend listing the species, and for the Commission that must make the ultimate decision to list or not.

For these reasons, the immediate adoption of this emergency regulation is necessary to allow numerous projects and activities to continue during the candidacy review period for tricolored blackbird under CESA. This regulation includes conditions designed to protect the species for all of the activities covered. The Commission believes the activities permitted under this regulation will result in very limited take and will not likely jeopardize the continued existence of the species. The Commission finds, in this respect, that the regulation subject to this determination will ensure appropriate interim protections for the tricolored blackbird while the Department conducts a 12-month review of the status of the candidate species and the Commission makes its final determination regarding listing under CESA.

IV. Express Finding of Emergency

Pursuant to the authority vested in the Commission by FGC Section 240, and for the reasons set forth above, the Commission expressly finds that the adoption of this regulation is necessary for the immediate conservation, preservation, or protection of fish and wildlife resources, or for the immediate preservation of the public general welfare. The Commission specifically finds that the adoption of this regulation will allow

activities that may affect the tricolored blackbird to continue during the candidacy period as long as those activities are conducted in a manner consistent with the protections specified in this regulation.

V. Authority and Reference Citations

Authority: FGC Sections 200, 202, 240, and 2084.

Reference: FGC Sections 200, 202, 240, 2080, 2084, and 2085.

VIII. Informative Digest

The sections below describe laws relating to listing species under CESA, the effect of this emergency regulation, a description of related federal law, and a policy statement overview.

A. Laws Related to the Emergency Regulation - Listing under CESA

1. Petition and Acceptance

FGC Section 2070 requires the Commission to establish a list of endangered species and a list of threatened species. Any interested person may petition the Commission to add a species to the endangered or threatened list by following the requirements in FGC Sections 2072 and 2072.3. If a petition is not factually incomplete and is on the appropriate form, it is forwarded to the Department for evaluation.

FGC Section 2073.5 sets out the process for accepting for further consideration or rejecting a petition to list a species and, if the petition is accepted, a process for actually determining whether listing of the species as threatened or endangered is ultimately warranted. The first step toward petition acceptance involves a 90-day review of the petition by the Department to determine whether the petition contains sufficient information to indicate that the petitioned action may be warranted. The Department prepares a report to the Commission that recommends rejection or acceptance of the petition based on its evaluation.

FGC Section 2074.2 provides that, if the Commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, the petition is accepted for consideration and the species that is the subject of the petition becomes a "candidate species" under CESA. CESA prohibits unauthorized take of a candidate species. FGC Section 86 states "take" means to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. Killing of a candidate, threatened, or endangered species under CESA that is incidental to an otherwise lawful activity and not the primary purpose of the activity constitutes take under state law. (*Department of Fish and Game v. Anderson-Cottonwood Irrigation District* (1992) 8 Cal.App.4th 1554; see also *Environmental Protection and Information Center v. California Dept. of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (in the context of an ITP issued by the

Department under CESA the California Supreme Court stated, "'take' in this context means to catch, capture or kill".)

CESA's take prohibition applies to candidate species pursuant to FGC Section 2085 upon public notice by the Commission of its finding that sufficient information exists to indicate the petitioned action may be warranted. Upon publication of such notice in the California Regulatory Notice Register, take of candidate species is prohibited absent authorization as provided in FGC. Following such notice, all activities, whether new or ongoing, that cause incidental take of the candidate species are in violation of CESA unless the take is authorized in regulations adopted by the Commission pursuant to FGC Section 2084 or the Department authorizes the take through the issuance of an ITP or other means available under CESA.

2. Status Review and Final Action on the Petition

The Commission's acceptance of a petition initiates a 12-month review of the species' status by the Department, pursuant to FGC Section 2074.6. This status review helps to determine whether the species should be listed as threatened or endangered. Unlike the Department's initial evaluation, which focuses largely on the sufficiency of information submitted in the petition, the 12-month status review involves a broader inquiry into and evaluation of available information from other sources. The Commission is required to solicit data and comments on the proposed listing soon after the petition is accepted, and the Department's written status report must be based upon the best scientific information available.

Within 12 months of the petition's acceptance, the Department must provide the Commission a written report that indicates whether the petitioned action is warranted. (FGC Section 2074.6.) The Commission must schedule the petition for final consideration at its next available meeting after receiving the Department's report. (*Id.*, Section 2075.) In its final action on the petition, the Commission is required to decide whether listing the species as threatened or endangered "is warranted" or "is not warranted." If listing is not warranted in the Commission's judgment, take of the former candidate species is no longer prohibited under CESA. (*Id.*, Section 2075.5.)

B. Effect of the Emergency Action

Section 749.8 of Title 14 of the California Code of Regulations would authorize take, as defined by FGC Section 86, of the tricolored blackbird during its candidacy subject to the following terms and conditions:

(a) Take Authorization.

The Commission authorizes the take of tricolored blackbird during the candidacy period subject to the terms and conditions herein.

(1) Actions to Protect, Restore, Conserve or Enhance Habitat.

Take of tricolored blackbird incidental to otherwise lawful activity, where the purpose of the activity is to protect, restore, conserve, or enhance habitat for a species designated as an endangered, threatened, or candidate species under state or federal law.

(2) Actions to Monitor Tricolored blackbird Breeding Colonies.

Take of tricolored blackbird incidental to efforts to monitor active tricolored blackbird breeding colonies, including entering colonies to perform walking transects. Only trained observers who are approved by the Department will be authorized to engage in such monitoring.

(3) Harvest of Grain Crops Under Harvest Management Program to Protect Colonies.

Take of tricolored blackbird incidental to harvest of grain fields and related agricultural activities is authorized where an individual participates in a harvest management program administered by NRCS, or harvest management program administered or approved by the Department; the harvest management program shall include the establishment of a buffer zone and harvest date as described in the document "California Department of Fish and Wildlife (Department) Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (adopted on March 19, 2015 and available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=99310&inline>). The individual seeking authorization for take incidental to harvest of grain fields and related agricultural activities shall receive written confirmation of participation in the harvest management program and must obtain specific authorization for the timing of harvest and related agricultural activities from NRCS, the Department, or a biologist authorized by the Department or NRCS before proceeding with any harvest activities that take tricolor blackbirds.

(b) Reporting.

Any person, individual, organization, or public agency, or their agents, for which incidental take of tricolored blackbirds is authorized pursuant to subsections (a)(1) and (a)(3), shall report observations and detections of tricolored blackbird colonies, including take, to the Department's Wildlife Branch by August 1 during the candidacy period. Information reported to the Department pursuant to this subsection shall include: a contact name; the date and location (GPS coordinate preferred) of the colony or take; colony size; colony outcome; and details regarding the animal(s) observed. Colony outcome means whether the colony was abandoned or whether young in a colony fledged. Any person, individual, organization, or public agency, or their agents seeking incidental take

authorization pursuant to subsection (a)(3), shall report their participation in an approved harvest management program to the Department prior to grain harvest.

(c) Additions, Modifications or Revocation.

(1) Incidental take of tricolored blackbird from activities not addressed in this section may be authorized during the candidacy period by the Commission pursuant to FGC Section 2084, or by the Department on a case-by-case basis pursuant to FGC Section 2081, or other authority provided by law.

(2) The Commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity or project may cause jeopardy to the continued existence of tricolored blackbird.

EVALUATION OF INCOMPATIBILITY WITH EXISTING REGULATIONS:

Section 20, Article IV, of the State Constitution specifies that the Legislature may delegate to the Commission such powers relating to the protection and propagation of fish and game as the Legislature sees fit. The Legislature has delegated to the Commission the power to establish regulations for the incidental take of a candidate species (FGC Section 2084). Commission staff has searched CCR and has found that the proposed regulation is neither inconsistent nor incompatible with existing state regulations.

VI. Specific Agency Statutory Requirements

The Commission has complied with the special statutory requirements governing the adoption of emergency regulations pursuant to FGC Section 240. The Commission held a public hearing on this regulation on February 11, 2016, and the above finding that this regulation is necessary for the immediate conservation, preservation, or protection of fish and wildlife resources, and for the immediate preservation of the public general welfare meets the requirements of Section 240.

VII. Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the emergency regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

(a) Costs/Savings in Federal Funding to the State:

The Commission has determined that the adoption of Section 749.8 of Title 14 of the California Code of Regulations as an emergency regulation pursuant to FGC Section 2084 will not result in costs or savings in federal funding to the State.

(b) Nondiscretionary Costs/Savings to Local Agencies:

The Commission has determined that adoption of Section 749.8 of Title 14 of the California Code of Regulations as an emergency regulation pursuant to FGC Section 2084 will likely provide cost savings to local agencies in an undetermined amount. In the absence of the emergency regulation, the Department would have to authorize take of the tricolored blackbird on a project-by-project basis, which is both time-consuming and costly to local agencies seeking take authorization. These delays and cancellations would cause great economic harm to persons already lawfully engaged in such activities, their employees, their local communities, and the State of California.

(c) Programs Mandated on Local Agencies or School Districts:

The Commission has determined that the adoption of Section 749.8 of Title 14 of the California Code of Regulations as an emergency regulation does not impose a mandate on local agencies or school districts.

(d) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4; Government Code: None.

(e) Effect on Housing Costs:

The Commission has determined that the adoption of Section 749.8 of Title 14 of the California Code of Regulations as an emergency regulation will not result in any cost to any local agency or school district for which Government Code sections 17500 through 17630 require reimbursement and will not affect housing costs.

(f) Costs or Savings to State Agencies

The Commission has determined that adoption of Section 749.8 of Title 14 of the California Code of Regulations as an emergency regulation pursuant to FGC Section 2084 will likely provide cost savings to state agencies in an undetermined amount. In the absence of the emergency regulation, the Department would have to authorize take of the tricolored blackbird on a project-by-project basis, which is both time-consuming and costly for both the Department in processing and authorizing such take, as well as to state agencies seeking take authorization.

Absent adoption of the emergency regulation, state and local agencies, and the regulated community will bear the timing and process costs associated with project-by-project permitting by the Department. Regulations implementing CESA contemplate a roughly six month review by the Department for proposed ITPs. Appropriate CEQA review for individual ITPs also affects the timing of permits issued by the Department. (CCR, Title 14, sections 783.3 and 783.5.) The number and timing of permits issued by the Department is also a product of economic conditions, and the resources actually available to the Department to administer the permitting program.

Regulatory Text

Section 749.8, Title 14, CCR, is added to read:

749.8 Incidental Take of Tricolored Blackbird (*Agelaius tricolor*) During Candidacy Period

This regulation authorizes take as defined by Fish and Game Code Section 86, of tricolored blackbird in the limited circumstances described below, subject to certain terms and conditions, during the species' candidacy under the California Endangered Species Act (Fish and Game Code, Section 2050 et seq.).

(a) Take Authorization.

The Commission authorizes the take of tricolored blackbird during the candidacy period subject to the terms and conditions herein.

1. Actions to Protect, Restore, Conserve, or Enhance Habitat.

Take of tricolored blackbird incidental to otherwise lawful activity, where the purpose of the activity is to protect, restore, conserve, or enhance habitat for a species designated as an endangered, threatened, or candidate species under state or federal law.

(2) Actions to Monitor Tricolored Blackbird Breeding Colonies.

Take of tricolored blackbird incidental to efforts to monitor active tricolored blackbird breeding colonies, including entering colonies to perform walking transects. Only trained observers who are approved by the Department will be authorized to engage in such monitoring.

(3) Harvest of Grain Crops Under Harvest Management Program to Protect Colonies.

Take of tricolored blackbird incidental to harvest of grain fields and related agricultural activities is authorized where an individual participates in a harvest management program administered by the Natural Resources Conservation Service (NRCS), or harvest management program administered or approved by the Department; the harvest management program shall include the establishment of a buffer zone and harvest date as described in the document "California Department of Fish and Wildlife (Department) Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (adopted on March 19, 2015 and available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=99310&inline>). The individual seeking authorization for take incidental to harvest of grain fields and related agricultural activities shall receive written confirmation of participation in the harvest management program and must obtain specific authorization for the timing of harvest and related agricultural activities from NRCS, the Department,

or a biologist authorized by the Department or NRCS before proceeding with any harvest activities that take tricolor blackbirds.

(b) Reporting.

Any person, individual, organization, or public agency, or their agents, for which incidental take of tricolored blackbirds is authorized pursuant to subsections (a)(1) and (a)(3), shall report observations and detections of tricolored blackbird colonies, including take, to the Department's Wildlife Branch by August 1 during the candidacy period. Information reported to the Department pursuant to this subsection shall include: a contact name; the date and location (GPS coordinate preferred) of the colony or take; colony size; colony outcome; and details regarding the animal(s) observed. Colony outcome means whether the colony was abandoned or whether young in a colony fledged. Any person, individual, organization, or public agency, or their agents seeking incidental take authorization pursuant to subsection (a)(3), shall report their participation in an approved harvest management program to the Department prior to grain harvest.

(c) Additions, Modifications or Revocation.

(1) Incidental take of tricolored blackbird from activities not addressed in this section may be authorized during the candidacy period by the Commission pursuant to Fish and Game Code Section 2084, or by the Department on a case-by-case basis pursuant to Fish and Game Code Section 2081, or other authority provided by law.

(2) The Commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity or project may cause jeopardy to the continued existence of tricolored blackbird.

Note: Authority cited: Sections 200, 202, 240 and 2084, Fish and Game Code.
Reference: Sections 200, 202, 240, 2080, 2084 and 2085, Fish and Game Code.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2016 FEB 23 PM 2:38



To San Francisco Board of Supervisors:

As many of you are well aware, it is a state law that peace officers, solely, have the authority to issue citations to those guilty of having committed an infraction.

The distinction must be made that security guards are not peace officers. Therefore any citations issued by security guards should be extinguished from any public records.

As a frequent passenger on SF Muni, my observation has been that most youth make it a practice to give up reserve seating for seniors.

In real estate there's a law that prohibits a broker or agent from representing both the seller and the buyer, unless all parties agree to a dual agency. This is a mechanism put in place to prevent unfair advantages and conflicts of interest.

San Francisco City governments has its own set of laws and ordinances.

It seems to this observer that Muni security guards are in violation of State law, as only sworn peace officers have the authority to issue citations.

Much like the parallel I've touched on regarding real estate, Muni security has been acting in a dual capacity as both a security guard and as peace officers.

In this paradigm how can there be checks and balances? It is an unfair practice which calls for reform.

Muni security must cease from issuing any more citations, as it is a direct violation of the Second, and Fourteenth Amendments.

If the city permits Muni security to continue with this practice, they have a responsibility to provide every guard with income commensurate to those of police officers, along with medical benefits.

John Fitch

Thevoice.fitch3@gmail.com

File No 150440

BOS-11

From: apglk@comcast.net
Sent: Tuesday, February 23, 2016 2:08 PM
To: Board of Supervisors, (BOS); Avalos, John (BOS); Campos, David (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Wiener, Scott; Mar, Eric (BOS); Tang, Katy (BOS); Breed, London (BOS); Yee, Norman (BOS)
Subject: Public Comment: item #6 on the agenda - Charter Amendment - Park, Recreation and Open Space Fund

Dear members of the SF Board of Supervisors,

Last year the US administration pushed through the Joint Comprehensive Plan of Action (Iran Deal.) Some say that the deal is really bad. Some say that it's the best poor powerless United States could possibly get. But, without doubt, with this deal the Islamic Republic of Iran has much more money to put into support of their favorite terrorist organizations.

When the Park, Recreation and Open Space Fund charter amendment goes through (as it doubtlessly would) - unnatural Natural Area Program would have much more money to proceed with its tree-cutting-herbicide-spraying agenda than it has now.

Where is the chapter amendment preventing the killing of healthy trees (labeled inferior/invasive) and - at the very least - banning the use of those very toxic herbicides in our parks? If you think that herbicides only kill target plants, only damage plants, that the amounts used are too small to hurt people - just think about Agent Orange story for a moment.

Thank you,
Anastasia Glikshtern

From: Board of Supervisors, (BOS)
To: Campos, David (BOS); Breed, London (BOS); Avalos, John (BOS); Yee, Norman (BOS); Kim, Jane (BOS); Cohen, Malia (BOS); Mar, Eric (BOS); Peskin, Aaron (BOS)
Subject: FW: Important information for the dog management plan show on Forum
Attachments: Chris Lehnertz GGNRA DMP Extended Comment Period 2.17.16.pdf

From: Claire Mills [mailto:clarable@yahoo.com]
Sent: Wednesday, February 24, 2016 7:02 PM
To: mkim@kqed.org; Wiener, Scott <scott.wiener@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; katrina.rill@mail.house.gov; Ash S. Miller <ashley.miller@klgates.com>; forum@kqed.org; inoguchi@kqed.org; jcampbell@kqed.org; Mkrasny@kqed.org; publicrelations@sfspca.org; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; Lee, Mayor (MYR) <mayoredwinlee@sfgov.org>
Subject: Important information for the dog management plan show on Forum

Please have on Forum people who understand the legal history of the dog management plan issue. It is not fair to all the people who have fought for decades to only have on one person who owns a dog who has not been involved in the LEGAL analysis side of this. It does a disservice to the whole bay area to not have the opposing view represented fully and equally. I just spoke with Mina Kim who informed me neither the lawyer representing the dog side - Ash Miller, nor Scott Wiener nor Jackie Spier nor the SPCA president were invited. The experts are not there and it seems to be a dream show created by the NPS for publicity so there will be no honest dialogue. The bay area population expects balance and truth from Forum.

For Jackie Spier and Scott Wiener and Dr. Scarlett, the call in number is 866-733-6786

I hope Ms. Noguchi or whoever is producing the segment tomorrow will "reply to all" as to the hour this segment will be produced, 9-10 or 10-11.

Below is the email I sent to the producers of the show earlier in the week.

----- Forwarded Message -----

From: Claire Mills <clarable@yahoo.com>
To: "forum@kqed.org" <forum@kqed.org>; "inoguchi@kqed.org" <inoguchi@kqed.org>; "jcampbell@kqed.org" <jcampbell@kqed.org>
Cc: Ash S. Miller <ashley.miller@klgates.com>
Sent: Tuesday, February 23, 2016 5:09 PM
Subject: Pelosi's letter attached, contact for Laywer for Dog Side and request for show with him and NPS representatives for GGNRA plan

Dear Ms. Noguci and Ms. Campbell,

Were you to host a show inviting the one lawyer representing the dog side (**Mr. Ash Miller**, cc'd above, partner at K and L Gates, a federal land use attorney located in Seattle) along with the president of the SPCA, **Dr. Scarlett** and/or **Scott Wiener** or **Jackie Spier**, some of the locally elected officials who truly understand the impact on the local

community and **Jon Jarvis, Howard Levitt**, among others from the NPS side of the argument, you would truly service the region.

Many of us are hoping you can cover a contentious decision just handed down from the NPS to the residents of San Mateo, San Francisco, and Marin Counties and wonder if there could be a show about it? **Every single elected official from the three counties impacted is opposed to the plan** - each and every member of all three boards of supervisors, each of the three congressional representatives in the US House and the mayor of San Francisco. Mayor Lee personally wrote a letter to John Jarvis to stop this plan. The president of the SPCA is highly opposed as well. Additionally, in the public comment period 4-5 years ago 75% of commenters were opposed and in the last round of public comment about 2 years ago, 80% of the commenters were opposed to the plan.

Please see the latest letter dated yesterday attached from Nancy Pelosi to the GGNRA.

The GGNRA's dog management plan is just released. On your show about 4-5 years ago, you had Jon Jarvis of the NPS and Martha Walters of Crissy Field Dog group. On that show, I believe Jon Jarvis specifically said in public that he does not like dogs. Many of us believe the plan is top down from him and not taking into consideration the public which they are **legally mandated** to do. I personally believe they are trying to get it completed and imposed before the centennial celebration this summer, hence for a "one summer event" but it will impact us all for the rest of our life-times.

This is overreach of the federal government on San Francisco and the whole coastal region for 3 counties, importing outside views onto San Francisco, an area that generally teaches the rest of the country how to live successfully alongside nature. We've been throwing balls to our dogs and hiking with our dogs without polluting the landscape, the bay, or reducing wild life populations for generations and decades. Dogs on the beach with their surfer owners is emblematic of California culture. San Franciscans govern not one inch of the 3 sides of their city which are on the water (SF Port is State Run, GGNRA controls the rest). We have no say and yet we have so much to share and teach the rest of the country.

I hope you'll consider the importance of this issue on us all and please host a show. We believe the NPS needs to be held accountable for not following the legal NEPA process they established.

Thank you again for all you do and the voice you give the public through your work!!!!
Claire Mills

NANCY PELOSI
12TH DISTRICT, CALIFORNIA
DEMOCRATIC LEADER

233 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0508
(202) 225-4965

Congress of the United States
House of Representatives
Washington, DC 20515-0508

DISTRICT OFFICE:
SAN FRANCISCO FEDERAL BUILDING
90-7TH STREET, SUITE 2-800
SAN FRANCISCO, CA 94103
(415) 556-4862
www.pelosi.house.gov

February 17, 2016

Superintendent Christine Lehnertz
Golden Gate National Recreation Area
Building 201, Fort Mason
San Francisco, CA 94123-0022

Dear Superintendent Lehnertz:

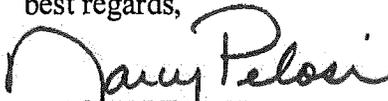
Thank you for your continued commitment to honoring the Bay Area's national treasure, the Golden Gate National Recreation Area (GGNRA). I am writing in regards to the proposed rule for the Dog Management Plan that is expected for release later this month. In the spirit of continuing to foster a meaningful discussion on this issue, I urge you to consider at least a 30 day extension of the comment period for the proposed rule for a minimum of 90 days of public comment.

Given the complexity, length, and importance of this issue, it is critical to ensure that the public has ample time to understand the contents of the proposed rule in order to ensure stakeholders have the necessary time to submit thoughtful and informed comments. Above all, a comprehensive comment period will provide my constituents, residents of the Bay Area, interested stakeholders, and the GGNRA a significant opportunity to listen from many diverse viewpoints that will help with the preparation of a final rule.

As you prepare to make a decision on a finale rule, it is important to consider the unique history of the GGNRA, which includes a long history of off-leash dog recreation in San Francisco that began before the transfer of land from the City and County of San Francisco to the National Park Service. It is essential to recognize the impacts a Dog Management Plan will have on the lives of the people and animals it is intended to manage and guide. A Dog Management Plan for the GGNRA should strike a balance between protecting wildlife habitat and visitors, while allowing dogs and their responsible guardians ample area to recreate. Now more than ever, we must continue to preserve and foster our park's natural, historic, scenic, and recreational purposes.

Again, thank you for attention to this issue. Together, we can ensure this magnificent national treasure stands as an iconic symbol of our city and at the same time, attracts, excites, and inspires visitors for generations to come.

best regards,


NANCY PELOSI
Member of Congress

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: Proposed Rule for Dog Management in GGNRA

From: Bess Touma [mailto:elizabethtouma@gmail.com]
Sent: Wednesday, February 24, 2016 8:58 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Proposed Rule for Dog Management in GGNRA

Dear Members of the Board of Supervisors:

I shared this comments today with GGNRA:

I urge you to fully support the proposed rule for dog management in GGNRA. It meets the NPS mission to protect the natural resources and provide the park land for use by all constituents. This rule assures that all constituents can use the park land to the full extent without impeding on others. All constituents in this proposed rule have been protected and empowered. Most of all, it assures that GGNRA can remain the most dog friendly park in the nation.

Sincerely,

Elizabeth A. Touma
Bess Touma
elizabethtouma@gmail.com
415.819.6094

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: Budget Support for Open Source Voting System Project
Attachments: SanFrancisco_OpenSource_Feb2016_FairVote.pdf

From: Chris Hughes [mailto:chughes@fairvote.org]
Sent: Thursday, February 25, 2016 7:51 AM
To: Lee, Mayor (MYR) <mayoredwinlee@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Jerdonek, Chris (REG) <chris.jerdonek@sfgov.org>; Commission, Elections (REG) <elections.commission@sfgov.org>; Arntz, John (REG) <john.arntz@sfgov.org>
Subject: Budget Support for Open Source Voting System Project

Please see the attached letter in support of funding an open source voting system project in this year's budget.
Thank you.

Sincerely,

FairVote

--
Chris Hughes
Legal Fellow
6930 Carroll Avenue, Suite 240
Takoma Park, MD 20912
chughes@fairvote.org (301) 270-4616 <http://www.fairvote.org>
[FairVote Facebook](#) [FairVote Twitter](#)

Thank you for considering a donation.
(Note: Our Combined Federal Campaign number is 10132.)

FairVote

6930 Carroll Ave., Suite 240
Takoma Park, MD 20912 – (301) 270-4616
(301) 270-4133 (fax) – info@fairvote.org
www.fairvote.org

February 23, 2016

The Honorable Edwin M. Lee, Mayor of San Francisco
San Francisco Board of Supervisors
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 48
San Francisco, CA 94102

RE: Budget Support for Open Source Voting System

Dear Mayor Lee and Members of the Board of Supervisors

I am writing to encourage you to fully fund in this year's budget the start of a project to develop and certify an open source voting system for use in San Francisco elections starting in 2020, as described by the Elections Commission's unanimous November 18, 2015 resolution. We thank the Board of Supervisors for its past leadership on this issue, given its unanimous approval in December 2014 of a resolution supporting the creation of an open source voting system.

FairVote is a 501(c)(3) nonprofit engaged in making elections across the country more free, fair, and fully representative. We work on these issues through research and advocacy, demonstrating the impact of electoral reforms such as ranked choice voting on democracy and advocating for ranked choice voting and similar reforms. Our board members include former Nirvana bassist Krist Novoselic, New Yorker writer Hendrik Hertzberg, Wind River co-founder David Wilner and Advancement Project general counsel Edward Hailes.

FairVote strongly supports the city's development and adoption of an open source voting system. Elections are public processes and the foundation of our democracy. An open source system would be more transparent, and ultimately a more cost-effective flexible solution for the City of San Francisco. It makes sense for our voting equipment to be a shared and fully transparent public resource.

San Francisco has become a leader in public policy and good government, and the Bay Area is a world-wide center for technology and innovation. Open source voting is at the intersection of both of these areas. The city has a tremendous opportunity through this project to improve not just its elections, but to improve elections across the nation. Your voting system would be open and affordable to all jurisdictions, allowing them to adapt it to their local needs.

On behalf of FairVote I encourage you to fully fund open source voting in this year's budget.

Sincerely,



Rob Richie
Executive Director of FairVote

Cc: San Francisco Elections Commission; Christopher Jerdonek, Elections Commission Vice President; John Arntz, Director of Elections

FairVote Board of Directors: Krist Novoselic (Chair) ◦ Edward Hailes (Vice-Chair)
Cynthia Terrell ◦ William Redpath ◦ Esperanza Tervalon-Daumont ◦ Hendrik Hertzberg
David Wilner ◦ Katie Ghose ◦ Paul Jacob ◦ John B. Anderson ◦ Tim Hayes ◦ Michael Lind

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Ausberry, Andrea; Somera, Alisa (BOS)
Subject: File 150969 FW: No to AHBP

From: Anne Marie Donnelly [mailto:shortie102000@yahoo.com]
Sent: Wednesday, February 24, 2016 10:06 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Secretary, Commissions (CPC) <commissions.secretary@sfgov.org>
Subject: No to AHBP

Dear Supervisors and Planning Commissioners,

Dear Supervisors and Planning Commissioners,

As a part of the Affordable Divis coalition, I am **opposed** to the Affordable Housing Bonus Program (AHBP). It threatens neighborhood character, fails to require sufficient affordability, and fails to protect existing rent controlled units and neighborhood serving retail businesses. **Instead, I support a community-focused approach to planning, as the Affordable Divis coalition has created with our Community Plan.**

**Thank you for hearing my voice,
Anne Marie Donnelly**

3)

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Ausberry, Andrea; Somera, Alisa (BOS)
Subject: File 150969 FW: No approval for AHBP

-----Original Message-----

From: Kersti Abrams [mailto:kerstia@earthlink.net]
Sent: Wednesday, February 24, 2016 10:22 PM
To: Secretary, Commissions (CPC) <commissions.secretary@sfgov.org>
Cc: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: No approval for AHBP

Dear Planning Commissioners,

As a long-time resident of District 5 and a member of the Affordable Divis Coalition, I am writing to voice my opposition to the Affordable Housing Bonus Program and to ask that you not approve this plan at the 2/25/16 meeting which I will unfortunately be unable to attend. To impose this proposed plan on the entire city will only further the ongoing loss of cultural and economic diversity which is threatening to erase the unique character of San Francisco. Under the guise of increasing affordable housing, this plan will result in the loss of existing rent-controlled units and of existing businesses which serve and are connected with the neighborhoods in which they exist. The increased density proposed in this plan would come with no improvements to transit or infrastructure. To turn the Divisadero corridor where I live into another version of the worst aspects of Van Ness, i.e. constant and frequently gridlocked traffic flowing between massive walls of concrete, is not a vision supported by anyone who actually lives here, but that seems to be what this plan is aiming at.

This plan has been put forward with virtually no input from those residents of San Francisco who will be most affected by it. The Community Plan created by the Affordable Divis Coalition through a series of meetings over the past couple of months is a positive example of how neighborhoods can be involved in planning the future of San Francisco in a way that serves the needs of the people who have actually been living here and not just the needs of developers aiming to profit from the creation of yet more high-end housing before the bubble bursts. I support planning and development which takes into account the wants and needs of existing communities, increases truly affordable housing and supports neighborhood businesses. The AHBP will do none of that, and I hope you do not approve it.

Sincerely,

Kersti Abrams

3)

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Somera, Alisa (BOS); Ausberry, Andrea
Subject: File 150969 FW: yes to community focused planning, no to the AHBP

From: aida jones [mailto:joneswest@mac.com]
Sent: Wednesday, February 24, 2016 10:27 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Breed, London (BOS) <london.breed@sfgov.org>
Subject: yes to community focused planning, no to the AHBP

dear supervisors,

i am a long term resident of san francisco and now live in the alamo square neighborhood. i love the diverse neighborhoods from north beach to chinatown, from soma to the inner sunset. . .san francisco is wonderous in its collection of unique places.

one size legislation is not what san francisco is about otherwise we'd not have district elections for our supervisors. you do not run a city wide campaign, why would you blanket the city with one size development?

that's why i'm writing to ask you to oppose the affordable housing bonus program (ahbp) as it is currently written. nor should any development plan be city wide and without community inputs.

there was no canvassing of the neighbors no real education program, only presentations without true conversations. please let's follow the example of the affordable divis coalition and take into account the residents of each unique area within the city.

i support affordable housing, i support new housing and i support community-focused city planning.

thank you.

regards,
aida jones

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Ausberry, Andrea
Subject: FW: Big-picture perspective on Reservoir Project

From: ajahjah@att.net [mailto:ajahjah@att.net]
Sent: Wednesday, February 24, 2016 11:11 PM
To: BRCAC (ECN) <brcac@sfgov.org>; Hood, Donna (PUC) <dhood@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Somera, Alisa (BOS) <alisa.somera@sfgov.org>
Cc: Yee, Norman (BOS) <norman.yee@sfgov.org>; Low, Jen (BOS) <jen.low@sfgov.org>
Subject: Big-picture perspective on Reservoir Project

BR CAC, PUC, BOS, Land Use Committee:

The Mayor's Office of Economic & Workforce Development and the Planning Department have presented the Balboa Reservoir Project essentially as a done-deed/fait accompli to the community.

Other than minor revisions to Principles & Parameters, OEWD/Planning has consistently and repeatedly failed to address community concerns regarding big-picture impacts on the existing conditions and setting that surround the PUC Reservoir site.

Here is a big-picture perspective on Balboa Reservoir that I urge you to consider:

1. The Public Land for Housing Program's goal is affordable housing
2. PUC requires fair market return for sale of its properties
3. The above two concepts are in contradiction, such that 100% affordable housing is not feasible.
4. The result is that the Reservoir Project predominantly promotes **unaffordable** housing: 67% unaffordable, in order to allow for 33% affordable.
5. Even the affordable housing will not be permanently affordable. The affordability will last only as long as the housing's "useful life." After the end of the "useful life" of affordable housing, such property will be owned free and clear of affordability restrictions. (This is per 2015 Proposition K language.)
6. The sale of Balboa Reservoir will result in a short-term cash gain for PUC; it will result in a long-term permanent loss of a large public property; it will result in a tremendous long-term bonanza for private interests.
7. OEWD/Planning has presented the Reservoir Project to the community pretty much as a done-deal.
8. CEQA requires assessment of a project's impact on existing conditions and "Public Services" The AECOM Study and the OEWD/Planning Principles & Parameters have failed to properly assess, or to propose realistic mitigation measures for the BR Project's significant impact on City College.

9. Before Mayor's Office can make it a done-deal, the Project will have to be facilitated by the PUC Commissioners (5 members) who would have to vote to declare the Reservoir to be surplus property.
10. PUC has a Land Use Framework to which it should adhere.
11. PUC should be asked to disallow sale of Reservoir as surplus in accordance with its own land use policy. See below:

Balboa Reservoir in context of PUC's Land Use Framework

The sale of PUC property is governed by the PUC document, "FRAMEWORK FOR LAND MANAGEMENT AND USE."

The document lays down conditions for sale of PUC land to include economic, environmental, and community criteria.

The Balboa Reservoir Project has been promoted as part of the Public Land for Housing Program whose purpose is to build affordable housing. PUC's Land Use Framework's economic criterion requires that the sale of Balboa Reservoir "must achieve fair market value compensation for the benefit of ratepayers." Because of this condition, 100% affordable housing will be unfeasible.

Public Land for Housing, in the context of Balboa Reservoir, will fail its overarching goal of affordability. Instead, Balboa Reservoir will achieve 67% **unaffordable** housing, in exchange for 33% affordable housing [OEWD/Planning's Principles & Parameters state a goal of 50/50%, but this target is unlikely to be reached. If this 50/50 target is reached, the outcome would be about 250 affordable units, and 250 unaffordable units. Would even this 50/50 ratio justify ceding public property in perpetuity to private interests?].

OTHER LAND USE FRAMEWORK CRITERIA

The PUC Land Use document states:

ECONOMIC CRITERIA: Land may be sold or transferred when:

1. *The sale or transfer does not jeopardize the future use or potential sale of functionally related and/or adjoining SFPUC land.*
2. *The sale or transfer will result in savings of operational costs expended to manage the property.*
3. *The sale or transfer does not result in a change of use of the property that would increase SFPUC exposure to liability related to conditions in the soil or structures that are not warranted by the return to SFPUC from the sale or transfer.*

Sale of Balboa Reservoir fails to fulfill Condition 2 of "Economic Criteria." Selling off Balboa Reservoir will not result in saving operational/management costs for Water Enterprise.

Instead of selling off the Reservoir to private developers, retaining this large tract of land constitutes "money [public assets] in the bank" for PUC and citizenry.

The Land Use document also states:

COMMUNITY CRITERIA: Land may be sold or transferred when:

- 1. The sale or transfer is evaluated under SFPUC Community Benefit and Environmental Justice policies and objectives.*
- 2. The sale or transfer would not significantly adversely affect the implementation of an adopted resource agency plan for the area.*
- 3. The sale would not increase the risk of loss, injury or death to SFPUC employees or others on or near the parcel.*
- 4. Use of the land sold will not result in activities creating a nuisance.*

The Balboa Reservoir Project as envisioned by OEWD/Planning fails Condition 4 of “Community Criteria.”

The current plan removes existing parking for City College students. It deliberately limits parking within the Reservoir to 0.5 parking spaces per residential unit in the unrealistic expectation that this will discourage car ownership by new Reservoir residents.

Given the limited street parking in the surrounding neighborhoods, and the fact that the main (practically and probably the only) ingress/egress to the Reservoir Housing project will be Phelan Avenue, the 500 unit Balboa Reservoir Project will result in creating a substantial traffic and parking nuisance [The word “nuisance” understates the problem].

The Balboa Reservoir Project as set forth in the OEWD/Planning Principles & Parameters fail to comply with PUC’s “Framework for Land Management and Use.”

The sale of Balboa Reservoir to private developers would provide a short-term cash infusion to PUC Water Enterprise. However the short-term gain of quick cash doesn’t justify losing this valuable piece of public land in perpetuity to private developers in the guise of “affordable housing.”

Submitted by:

Alvin Ja

District 7 resident

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Somera, Alisa (BOS); Ausberry, Andrea
Subject: file 150969 FW: Stop Affordable Housing Bonus Program

-----Original Message-----

From: Stacy Thompson [mailto:stacyt.thompson@gmail.com]
Sent: Thursday, February 25, 2016 7:11 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: Stop Affordable Housing Bonus Program

Dear Supervisors,

As a part of the Affordable Divis coalition, I am opposed to the Affordable Housing Bonus Program (AHBP). It threatens neighborhood character, fails to require sufficient affordability, and fails to protect existing rent controlled units and neighborhood serving retail businesses. Instead, I support a community-focused approach to planning, as the Affordable Divis coalition has created with our Community Plan.

Stacy Thompson
120 Webster Street
San Francisco, 94117
stacyt.thompson@gmail.com

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Somera, Alisa (BOS); Ausberry, Andrea
Subject: File 150969 FW: RE:opposition to AHBP

From: sfcookin@aol.com [mailto:sfcookin@aol.com]
Sent: Thursday, February 25, 2016 7:22 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: RE:opposition to AHBP

As a part of the Affordable Divis coalition, I am **opposed** to the Affordable Housing Bonus Program (AHBP). It threatens neighborhood character, fails to require sufficient affordability, and fails to protect existing rent controlled units and neighborhood serving retail businesses. **Instead, I support a community-focused approach to planning, as the Affordable Divis coalition has created with our Community Plan.**

The Divisadero corridor is already becoming San Francisco's version of a food and bar court. This plan will only accelerate the elimination of neighborhood-sized, and neighborhood-serving businesses.

Judith Kaminsky

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Somera, Alisa (BOS); Ausberry, Andrea
Subject: File 150969 FW: Comment for 2/25 AHBP hearing from DNA
Attachments: DNA AHBP letter 0225 2016.pdf

From: wumoffly@aol.com [mailto:wumoffly@aol.com]
Sent: Thursday, February 25, 2016 9:33 AM
To: Secretary, Commissions (CPC) <commissions.secretary@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; planning@rodneyfong.com; cwu.planning@gmail.com; wordweaver21@aol.com; richhillissf@yahoo.com; Johnson, Christine (CPC) <christine.d.johnson@sfgov.org>; mooreurban@aol.com; Richards, Dennis (CPC) <dennis.richards@sfgov.org>; Wiener, Scott <scott.wiener@sfgov.org>
Cc: deannamooney@sbcglobal.net; diane@dmccarney.com; Dischinger, Kearstin (CPC) <kearstin.dischinger@sfgov.org>
Subject: Comment for 2/25 AHBP hearing from DNA

Attn: J.P. Ionin

Attached please find the comments respectfully submitted from the Duncan Newburg Association regarding the Executive Summary hearing materials on AHBP for discussion by the Planning Commission on Feb 25.

Thank you for your consideration.

Sincerely,
Deanna Mooney, President
Diane McCarney, co-President
Lily Wu
Duncan Newburg Association

To: San Francisco Planning Commission

cc: Scott Wiener

cc: Board of Supervisors Secretary

cc: Planning Dept. AHBP

This is written on behalf of the Duncan Newburg Association (DNA) which represents approximately 70 home owners in the area surrounding the Duncan Castro Open Space Park.

We read the distributed Executive Summary of Planning Code Amendment for the AHBP which was distributed on February 22, and would respectfully like to forward the following feedback:

1. We strongly support the Planning Department's recommended amendment as stated on page 6 of the Executive Summary to "Add Limiting Criterion: Projects that propose to demolish any residential units shall not be eligible for AHBP." Demolishing existing units to build new units, even if more, is disruptive and wasteful. We hope the Planning Commission will accept this recommended amendment, and that the Board of Supervisors will similarly move to adopt it.
2. We also agree with and approve of the Planning Department's analysis that AHBP projects should generally be parcels which are "currently developed to less than five percent of existing zoning, and do not have residential uses, and are not schools, churches, hospitals, or historic resources." If anything, we hope the Planning Commission and the Board of Supervisors will adopt this exact language in the final AHBP code so that this intention and analysis is codified, and will not be forgotten or disregarded in future years. We believe this is an important protection against AHBP being used to disadvantage or dislocate existing stakeholders in San Francisco such as existing tenants, home owners and small business owners. We hope for more affordable housing, but in addition to, and not at the expense of existing San Francisco stakeholders.
3. We were disappointed to discover that the Local AHBP code (Sec. 206.3) is not entirely consistent with the State AHBP code (Sec. 206.5), and that the State code may override the Local code if conflicts or legal challenges were to arise. Specifically, the draft code for the Local AHBP (Sec. 206.3) has a clear applicability clause Sec. 206.3b(6) that AHBP projects "consists only of new construction, and excluding any project that includes an addition to an existing structure." We strongly agree with and support this applicability clause. However, this clause does not appear in the State AHBP code in the comparable section (Sec. 206.5b). The more tailored and better defined Local AHBP should prevail in San Francisco. We urge the Planning Commission and Board of Supervisors to close any loopholes whereby the more permissive State AHBP may be used to challenge or override the Local AHBP code.

Sincerely,

Duncan Newburg Association

23 February 2016

From: Board of Supervisors, (BOS)
To: BOS-Supervisors; Somera, Alisa (BOS); Ausberry, Andrea
Subject: file 150969 FW: No on AHBP: Yes on smart density planning

From: Ellisa F. [mailto:ellisafeinstein@gmail.com]
Sent: Thursday, February 25, 2016 1:47 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>; Secretary, Commissions (CPC) <commissions.secretary@sfgov.org>
Subject: No on AHBP: Yes on smart density planning

Dear Supervisors and Planning Commissioners,

As a part of the Affordable Divis coalition and a 16 year resident of San Francisco, I am opposed to the Affordable Housing Bonus Program (AHBP). It threatens neighborhood character, fails to require sufficient affordability and new transit infrastructure, and fails to protect existing rent controlled units and neighborhood serving retail businesses.

While density housing is needed, it should not come to the expense of the beauty that defines San Francisco nor at the expense of residents' quality of life. What we have been currently seeing is an influx of new buildings without concern for the ascetics of the city - buildings that are, quite frankly, very ugly. We're also seeing proposed large buildings (i.e. along the Divisadero Corridor) that do not plan for transit improvements; for instance, right now, one can barely walk down the sidewalks on Divisadero when there is a crowd, bicycling is becoming even more precarious with additional cars on the road, and traffic is more horrendous than it was in the early 2000s.

Instead, I support a community-focused approach to planning, as the Affordable Divis coalition has created with our Community Plan. Please consider the Community Plan as an alternative.

Thank you for your time.

Sincerely,
Ellisa Feinstein

400 Baker Street
San Francisco, CA 94117

File No. 151179

From: Board of Supervisors, (BOS)
To: Peskin, Aaron (BOS); Angulo, Sunny (BOS); Hepner, Lee (BOS); Chan, Connie (BOS); Ausberry, Andrea; Somera, Alisa (BOS)
Subject: File 151179 FW: NATO: Age 21 Ordinance
Attachments: Letter to San Francisco Board of Supervisors Regarding State Law Pre-Emption (February 28, 2016).pdf; ATT00001.htm; Letter to San Francisco Board of Supervisors Regarding State Law Pre-Emption.pdf; ATT00002.htm

From: Thomas Briant [mailto:info@natocentral.org]
Sent: Sunday, February 28, 2016 7:42 PM
To: Mar, Eric (BOS) <eric.mar@sfgov.org>; Farrell, Mark (BOS) <mark.farrell@sfgov.org>; Tang, Katy (BOS) <katy.tang@sfgov.org>; BreedStaff, (BOS) <breedstaff@sfgov.org>; Kim, Jane (BOS) <jane.kim@sfgov.org>; Yee, Norman (BOS) <norman.yee@sfgov.org>; Wiener, Scott <scott.wiener@sfgov.org>; david.campos@sfgvo.org; Cohen, Malia (BOS) <malia.cohen@sfgov.org>; Avalos, John (BOS) <john.avalos@sfgov.org>; Christensen, Julie (BOS) <julie.christensen@sfgov.org>
Cc: info@sfcityattorney.org; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: NATO: Age 21 Ordinance

NATO®

DATE: February 28, 2016

TO: San Francisco Board of Supervisors

CC: City Attorney Dennis Herrera; Clerk of the Board of Supervisors

FROM: Thomas Briant, Executive Director

As the legal counsel for the National Association of Tobacco Outlets and on behalf of the retailers located in San Francisco that are members of NATO, I am submitting the attached follow up letter regarding a pending request for a California Attorney General's opinion on the question of whether local governments are preempted from raising the legal age to purchase tobacco products. With the full Board of Supervisors scheduled to vote on this proposed ordinance this week, please review the letter and I would appreciate a reply to this request by City Attorney Dennis Herrera.

If you or the city attorney has any questions, please call me at 866-869-8888.



NATO

February 28, 2016

President London Breed
Supervisor Eric Mar
Supervisor Mark Farrell
Supervisor Julie Christensen
Supervisor Katy Tang
Supervisor Jane Kim
Supervisor Norman Yee
Supervisor Scott Wiener
Supervisor David Campos
Supervisor Malia Cohen
Supervisor John Avalos
City of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: State Law Pre-Emption of Raising the Legal Age to Purchase Tobacco Products

Dear President Breed and Supervisors:

Please recall that I submitted a legal comment letter to the Board of Supervisors on November 23, 2015 explaining why California state law pre-empts a local government from raising the legal age to purchase tobacco products (a copy of my November 23, 2015 letter accompanies this correspondence).

During the Land Use Committee meeting on February 22, 2016, the committee heard public testimony on a proposed ordinance to raise the legal age to purchase tobacco products to 21 and voted to forward to the Board of Supervisors a recommendation to pass the proposed ordinance. At this hearing, Deputy City Attorney John Gitner stated that a city is not preempted by California state law from raising the legal age to purchase tobacco products.

This legal opinion by Attorney Gitner creates a conflict among various city attorneys regarding state preemption of raising the legal age to purchase tobacco products under California Penal Code Section 308(e). The legal comment letter that I sent to the San Francisco Board last November was meant to (1) provide an explanation of state preemption law as it relates to the legal age to purchase tobacco products, (2) cite court cases interpreting the state preemption law, and (3) highlight the legal advice given by the Los Angeles City Attorney and the El Cerrito City

Attorney to their respective city councils that a California city is preempted from raising the legal age.

As an attorney myself, I understand that lawyers may disagree on the legal interpretation of a law. In this kind of situation it is important to obtain an authoritative legal opinion to allow for the uniform application of state law and the appropriate person to issue such an opinion would be California Attorney General Kamila Harris.

This question of preemption has led the Healdsburg, California City Council to take the sensible step of suspending enforcement of the city's minimum age 21 requirements to allow Healdsburg City Attorney Robin Donoghue time to submit a request to the California Attorney General for an attorney general's opinion on the state law preemption of raising the legal age to purchase tobacco products. With this request pending, and given the fact that an attorney general's opinion carries significant respect by and weight with state courts, the prudent course of action for the San Francisco Board of Supervisors to consider is to postpone action on the proposed age 21 ordinance until the attorney general's opinion is issued.

Otherwise, if the ordinance is enacted only to have the California Attorney General's opinion subsequently confirm that state law preempts a local unit of government from raising the age to purchase tobacco products, then the ordinance would need to be rescinded. That would cause confusion in the retail marketplace and among adult consumers as to why the ordinance was first adopted and then repealed.

For the reasons stated above, I am requesting that the San Francisco Board of Supervisors postpone future consideration of an ordinance to raise the legal age to purchase tobacco products to 21 years old. I would appreciate the courtesy of a reply to this correspondence to be informed of what action the San Francisco Board of Supervisors takes on this matter. Thank you for your consideration.

Sincerely,

Thomas A. Briant

Executive Director and Legal Counsel
National Association of Tobacco Outlets, Inc.

Copy To: City Attorney Dennis Herrera
Clerk of the Board of Supervisors



NATO

November 23, 2015

President London Breed
Supervisor Eric Mar
Supervisor Mark Farrell
Supervisor Julie Christensen
Supervisor Katy Tang
Supervisor Jane Kim
Supervisor Norman Yee
Supervisor Scott Wiener
Supervisor David Campos
Supervisor Malia Cohen
Supervisor John Avalos
City of San Francisco
City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: State Law Pre-Emption of Raising the Legal Age to Purchase Tobacco Products

Dear President Breed and Supervisors:

As legal counsel for the National Association of Tobacco Outlets, Inc. (NATO), and on behalf of NATO's retail member stores located in Palo Alto, I am writing to explain that California state law pre-empts a local government from raising the legal age to purchase tobacco products. Recently, newspaper reports have indicated that an ordinance has been proposed to raise the legal age to purchase tobacco products to 21 in the City of San Francisco.

California Penal Code Section Pre-Empts Local Governments from Raising the Legal Age

California Penal Code Section 308(a)(1) makes it illegal to sell tobacco products to a person under the age of 18. Specifically, the statute reads as follows:

Section 308(a)(1): Every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or blunts wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products

prepared from tobacco, or any controlled substance, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third offense.

Moreover, California Penal Code Section 308(e) clearly states that this state law pre-empts a local unit of government from enacting a law contrary to this state statute. This section reads as follows:

Section 308(e): It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section.

By enacting California Penal Code Section 308, the California legislature intended to exclusively regulate the issue of the minimum age to purchase tobacco products and, as a result, a city or county are not allowed to adopt any ordinance or regulation inconsistent with the minimum legal age of 18 years old.

In *Prime Gas, Inc. v. City of Sacramento*, (2010) 184 Cal. App. 4th 697, 109 Cal.Rptr.3d 261, the plaintiff raised the issue of preemption. The Court, citing *O'Connell v. City of Stockton* 41 Cal.4th 1061, 63 Cal.Rptr.3d 67, 162 P.3d 583 (2007), noted that the legislature may either expressly or implicitly preempt local jurisdictions, and further noted that Penal Code section 308(e) expressly prohibits cities and counties from adopting any ordinance or regulation inconsistent with Penal Code Section 308. (See 184 Cal. App.4th 703; 109 Cal.Rptr. 3d 264). Since Penal Code Section 308 That section makes it a crime to sell to a person under 18.

The court noted that in *Bravo Vending v. City of Rancho Mirage* 16 Cal.App.4th 383, 20 Cal.Rptr.2d 164 (1993), it was:

concluded that "the regulatory field preempted by [Penal Code] section 308 is that of the penal—i.e., both criminally and civilly proscribed—aspects of the sale of cigarettes to minors: To whom is it illegal to sell cigarettes, and what are the penal consequences of doing so?" (*Bravo*, supra, at p. 403, 20 Cal.Rptr.2d 164.)

184 Cal.App. 4th 706; 109 Cal.Rptr. 3d 266.

Thus the *Prime Gas* court affirmed the *Bravo* court's conclusion that Penal Code section 308 decided the issue of "to whom is it illegal to sell cigarettes," that is, persons under the age of 18.

The *Prime Gas* court went on to expound upon two other later enactments, the STAKE Act, which permits local jurisdictions to be "enforcing agencies" of State law, and the State Licensing Act of 2003. This latter Act the court described as playing "the pivotal role in deciding whether the [Sacramento] Ordinance is preempted by state law." 184 Cal.App. 4th 708; 109 Cal.Rptr. 3d 268. The Licensing Act allowed Boards of Equalization to impose administrative penalties for violations of either Penal Code Section 308 or the Stake Act. Then the Court quoted what it

called “the clincher” as to whether Sacramento’s ordinance, Bus & Prof. Code § 22971.3, was preempted:

Nothing in this [Act] preempts or supersedes any local tobacco control law other than those related to the collection of state taxes. Local licensing laws may provide for the suspension or revocation of the local license for any violation of a state tobacco control law. (Italics in original.)

184 Cal.App. 4th 709; 109 Cal.Rptr. 3d 269.

Thus, the *Prime Gas* court decided that Sacramento could adopt a local license law that included suspension or revocation of the local license *for violations of a state tobacco control law* because the License Act of 2003 specifically said they could. In other words, the State expressly allows local jurisdictions to adopt their own ordinances as long as they are restricted to suspension or revocation for violations of State tobacco laws.

Healdsburg Suspension of Enforcement of Age 21 Ordinance

Please note that the Healdsburg, California City Council has suspended its enforcement of the city’s minimum age 21 requirements to purchase tobacco products after NATO informed the city council members that California state law pre-empts a local unit of government from increasing the legal age to buy tobacco products. For your reference, I have included links to a Santa Clara Press Democrat newspaper story about the decision to suspend enforcement and a follow up editorial that was printed in the newspaper.

Healdsburg City Attorney Robin Donoghue (707-573-7803) has also informed me that the city will be submitting a request to the California Attorney General for an attorney general’s opinion regarding the state law pre-emption of raising the legal age to purchase tobacco products. In addition, the Healdsburg City Police Department has sent the accompanying letter dated October 12, 2015 to Healdsburg retailers informing them that enforcement of the age 21 requirements is suspended and that retailers can once again sell tobacco products to 18, 19, and 20-year-old adults during this enforcement suspension period.

Other California Local Governments Recognize State Law Pre-Empts Higher Legal Age

Just last month, the Los Angeles Chief Legislative Analyst informed the Los Angeles City Council that a city council member’s pending request to draft an ordinance increasing the legal age to purchase tobacco products to age 21 could not be complied with because California state law pre-empts such a local law from being adopted by a city or county government. According to the attached Los Angeles “Report of the Chief Legislative Analyst” dated September 11, 2015, Page 2, the Chief Legislative Analyst states as follows:

“On August 21, 2013, Motion (Koretz-Bonin) was introduced which requests the City Attorney to prepare an ordinance to increase the minimum legal age to purchase tobacco products from age 18 to 21 (C.F. 13-1101). The City Attorney has advised that the City is not allowed to increase the minimum legal age to purchase these products inasmuch as it is

preempted by State law.”

In addition to the Los Angeles City Attorney’s determination that state law pre-empts a local government from raising the legal age to purchase tobacco products, the El Cerrito, California City Attorney came to the same conclusion. As evidenced by Item 7A of the El Cerrito City Council Meeting agenda for January 20, 2015, which can be found at the link below, the following paragraph references the El Cerrito City Attorney’s opinion:

Minimum Legal Sale Age (MLSA)

The federal nationwide minimum age to purchase cigarette and smokeless tobacco is 18 years of age. In researching the matter, the City Attorney’s office found that cities in California are preempted under State law (Penal Code section 308) from raising the MLSA. California cities may regulate some details about the manner of the sales, and revoke a license if the business sells to a minor, but California cities cannot raise the MLSA.

<http://www.el-cerrito.org/Archive.aspx?ADID=2093>

In short, other local California lawmakers have been advised by their respective legal counsels that a local government is prohibited from raising the legal age to purchase tobacco products. Based on this legal advice, these cities have not considered nor adopted a minimum legal age of 21 to purchase tobacco products.

For all of the reasons stated above, I am requesting that the San Francisco Board of Supervisors cease future consideration of an ordinance to raise the legal age to purchase tobacco products to 21 years old.

I would appreciate the courtesy of a reply to this correspondence to be informed of what action the San Francisco Board of Supervisors will take on this matter. Thank you for your consideration.

Sincerely,

Thomas A. Briant

Executive Director and Legal Counsel
National Association of Tobacco Outlets, Inc.

Copy To: City Attorney Dennis Herrera
Clerk of the Board of Supervisors

From: Board of Supervisors, (BOS)
To: BOS-Supervisors
Subject: FW: plea for sanity

From: Carpenter, Russell [mailto:Russell.Carpenter@calbar.ca.gov]
Sent: Monday, February 29, 2016 9:13 AM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Subject: plea for sanity

Greetings. As a resident of San Francisco and a MUNI commuter for 42.5 years, I feel compelled to send this message. First of all, I protest the proposed removal of the 44th Avenue train stop for the L-Taraval. Many seniors and incapacitated commuters would be forced to walk up the hill to 42nd or down the hill to 46th. More importantly, I am opposed to MUNI's proposed spending of \$2.4 million annually for a training facility for MUNI drivers. I once rode the 48 Quintara from 24th Street (boarding somewhere around Noe or Sanchez, outbound) to my home on 43rd Avenue. I had to tell the driver, who was new and on her first route, each turn and stop to make along the way. How's that for training?!!! True story. MUNI management is incomprehensible. I don't know how many buses carry advertising signs, but it looks like a fleet of billboards on wheels. That must place quite a few tokens in the MUNI till. They provide free rides to students and seniors and keep raising parking meter costs and then kvetch about a budget shortage every year. The system is running amok; even Willie Brown threw up his hands in despair. Trains are frequently late or overcrowded. I say do not reward them for mismanagement. Thank you.

--
Dr. Russell K. Carpenter

RECEIVED
MARCH 23 2016
MARCH 23 PM 3:23
BIB



United States Department of the Interior

NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:
A38 (GOGA-CP)

Dear Friends of Golden Gate National Recreation Area:

I am pleased to announce the Proposed Rule for Dog Management in the Golden Gate National Recreation Area (GGNRA) is available for public inspection on February 23, 2016, and will open for a 60-day public comment period on February 24, 2016. This is an important step in the process to develop a federal rule on dog management in the GGNRA.



The Proposed Rule would amend the park's special regulation designating 22 locations for dog walking in the GGNRA. It is based on the Preferred Alternative described in the Draft Dog Management Plan/Supplemental Environmental Impact Statement (SEIS) that was reviewed and commented on by the public in 2013/14. The Proposed Rule would designate where and how people would be able to enjoy the park with their dogs – both on and off-leash – as well as places that would be dog free. It would define terms like “voice and sight control” that are essential to dog management. If ultimately implemented, the rule would ensure the protection of the park's natural and cultural resources and continue to provide recreational opportunities for a wide variety of park users. Comments on the Proposed Rule, along with comments previously received on the SEIS, will be used in developing the final plan and final rule, which are expected later this year.

GGNRA recognizes well-managed dog walking as a healthy and popular way to enjoy park lands. Under the Proposed Rule, the GGNRA would remain the most dog-friendly national park and the only national park in the United States to allow off-leash voice and sight control dog walking.

Under the Proposed Rule, off-leash dog walking would be allowed in seven areas in five different park locations including Fort Funston, the most popular dog walking area in the park. Dog walking would be allowed on almost one-third of the park's beach mileage, mostly off-leash, and one-third of the park's trail mileage would be available for visitors to walk their dogs on-leash. There would also be dog free beach and picnic area options. Specific areas would be identified for commercial dog walking.

Please join us at a public meeting listed below to discuss the Proposed Rule, ask questions, and learn about the planning process.

Farallone View Elementary School, Montara	March 22, 6:00-8:00 pm
Bay Model, Sausalito	March 23, 6:00-8:00 pm
Fort Mason Center, Gallery 308, San Francisco	March 24, 6:00-8:00 pm
Golden Gate Park, County Fair Building, San Francisco	March 29, 6:00-8:00 pm
Tamalpais Valley Community Center, Mill Valley	March 30, 6:00-8:00 pm
Pacifica Community Center, Pacifica	March 31, 6:00-8:00 pm

If an organization you are a part of would like us to speak at your next meeting about the Proposed Rule, please call us at (415) 561-4728.

To download a copy of the Proposed Rule, please visit www.regulations.gov (search "RIN 1024-AE16"). If you have questions about the Proposed Rule or would like to request a hard copy, please call (415) 561-4728 or email us at goga_dogmgt@nps.gov. Please note that comments on the Proposed Rule will be accepted through April 25, 2016, at www.regulations.gov (search "RIN 1024-AE16") or via letter to: Superintendent, GGNRA, Dog Management Proposed Rule, Building 201 Fort Mason, San Francisco, California, 94123.

Your comments on the Proposed Rule will play an important role in the development of the final plan and rule, which are expected later this year. We welcome your participation in the process. For more information on dog management planning and the Proposed Rule, please visit www.nps.gov/goga.

Sincerely,



Christine Lehnertz
Superintendent

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

Date: February 29, 2016
To: Members, Board of Supervisors
From: Angela Calvillo, Clerk of the Board
Subject: Form 700

This is to inform you that the following individuals have submitted a Form 700 Statement:

Rick Caldeira –Legislative Deputy Director – Leaving