

**CITY AND COUNTY OF SAN FRANCISCO**

**BOARD OF SUPERVISORS**

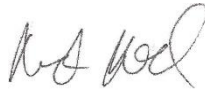
**BUDGET AND LEGISLATIVE ANALYST**

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July 25, 2025

**TO:** Budget and Finance Committee

**FROM:** Budget and Legislative Analyst



**SUBJECT:** July 29, 2025 Special Budget and Finance Committee Meeting

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<b>Item 1</b> <b>File 25-0191</b> <i>(Continued from July 23, 2025)</i>	<b>Departments:</b> Building Inspection and Planning Department
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>The ordinance adds Section 187 to the Planning Code and Section 106A to the Building Code to waive penalties and permit fees and grant amnesty from Planning Code enforcement for property owners who have received a Notice of Violation resulting from DBI's Internal Quality Control Audit. The new code sections would remain in effect for five years following approval of the ordinance however property owners would have three years to apply for the fee waivers.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>DBI completed an Internal Quality Control Audit of properties associated with former Building Inspector Bernard Curran and Building Inspection Commissioner Rodrigo Santos. DBI investigators found no imminent life-safety hazards, but 177 properties were flagged for potential Building and Planning Code violations. Following the required in-person inspections of the 177 red flag properties, as of June 2025, 136 DBI Notice of Violations (NOVs) have been issued for these properties and 41 remain under investigation.</li> <li>Applicants to this program will be prioritized by DBI inspectors, who will verify existing conditions, including the extent of non-compliance with the Building Code. Property owners must resolve any Building Code violations. The Planning Department would provide a determination of the property's non-conformance with the Planning Code.</li> <li>The City is not paying for any work property owners must complete to comply with the Building Code; it is just waiving fees and penalties for being out of compliance with the Building and Planning Codes.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>The proposed fee waivers would result in approximately \$924,226 in foregone revenue. DBI is forgoing approximately \$857,579 in revenue, representing about one percent of its FY 2025-26 budget. The Planning Department is forgoing \$66,647 in fee revenues, representing less than 0.5 percent of its FY 2025-26 budget. Both Departments report they can absorb these costs without impacting services.</li> </ul> <p style="text-align: center;"><b>Policy Consideration</b></p> <ul style="list-style-type: none"> <li>The proposed fee waivers assume property owners did not collude with Bernard Curran and Rodrigo Santos to undertake unpermitted building work. DBI's audit did not investigate those connections. As a result, the proposed Planning Code amnesty program and fee/penalty waivers may provide a financial benefit for illegal activity. In addition, the audit scope used to determine eligibility for this program did not review approximately 10,000 properties that were inspected by Curran, so the full extent of the Building and Planning Code violations from his conduct is not known.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>Approval of the proposed ordinance is a policy matter for the Board of Supervisors.</li> </ul>	

**MANDATE STATEMENT**

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

**BACKGROUND****Department of Building Inspection's Internal Quality Control Audit**

In May 2021, the San Francisco Department of Building Inspection (DBI) commenced an Internal Quality Control Audit, focusing on properties associated with two individuals: (1) former Senior Building Inspector Bernard Curran, who was convicted of taking illegal gratuities in exchange for inspection approvals, and (2) engineer, permit expediter, and former president of the Building Inspection Commission, Rodrigo Santos, who was prosecuted for forging documents, overcharging clients, and facilitating unpermitted work. The audit was finalized in June 2025.

**DBI Internal Quality Control Audit Methodology**

Curran and Santos provided services for 15,281 properties during their tenure at DBI. DBI narrowed its scope based on risk factors, ultimately selecting 5,445 properties for review. Properties were included if they involved: (1) same-day inspections scheduled by Curran, or (2) projects directly associated with Santos. These properties were categorized into three risk-based tiers to prioritize review.

Tier 1 included 119 properties associated with both Curran and Santos, representing the highest risk category. Tier 2 contained 158 properties associated with either Curran or Santos, but not both, and located within slope-protection areas subject to stricter building requirements. Tier 3 included the remaining 5,168 properties associated with either Santos or Curran but located outside slope-protection areas, representing lower-risk properties.

DBI's audit employed a three-phase process. Initially, DBI staff conducted a screening by reviewing permit records, inspection documentation, and digital resources such as Google Street View, Zillow, and Redfin. This step identified properties with discrepancies between permitted and actual work or potential unpermitted work requiring further investigation.

Subsequently, flagged properties underwent a secondary review to confirm issues and classify them by severity. DBI categorized properties into those having minor administrative issues, such as expired permits, and those with significant discrepancies necessitating formal enforcement.

In the final phase, properties identified with minor administrative concerns, such as expired permits, received formal written notifications advising property owners how to resolve these issues. Properties confirmed to have significant code discrepancies were referred directly to DBI's Complaint Investigation Team for on-site inspections and formal enforcement, potentially resulting in Notices of Violation (NOVs).

**Audit Findings**

DBI investigators concluded the Audit in January 2025 and found no imminent life-safety hazards but flagged 294 properties for follow-up due to significant physical discrepancies, missing records, or other evidence of unpermitted work. Of those, 177 properties were flagged for potential Building and Planning Code violations. DBI began the required in-person inspections of the 177 red flag properties and, as of June 2025, 136 DBI Notice of Violations (NOVs) have been issued for these properties. The remaining 41 properties are still under investigation by the DBI Code Enforcement Division due to limited access, owner nonresponse, or other delays. These complaints will remain open until resolved.

According to the proposed ordinance, some owners purchased these properties after the illegal or unapproved work had been completed or were otherwise unaware of any deviations from the typical inspection process by Curran or Santos. The properties may require work to bring them into compliance with the Building Code, however, this would be the responsibility of the property owner and is not included in this waiver program.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance adds Section 187 to the Planning Code and Section 106A to the Building Code, which waive penalties and permit fees and grant amnesty from Planning Code enforcement for property owners who have received a Notice of Violation resulting from DBI's Internal Quality Control Audit. The new code sections would remain in effect for five years following approval of the ordinance however property owners would have three years to apply for the fee waivers.

Applicants to the amnesty program would (1) receive a waiver/refund of all penalties for having unpermitted work, (2) a waiver/refund for the cost on obtaining the proper permits, and (3) receive a property classification of non-conforming use, allowing the property to remain out of compliance with Planning Code, as long as the conditions do not violate Building Code, pose a danger to health or safety, and the degree of non-conformity is not increased.

To qualify, a property must (1) be listed in the DBI Internal Quality Control Audit records and (2) have received a Notice of Violation linked to unpermitted work identified in DBI's Audit.

**Process**

According to DBI, residents who are issued an NOV in response to DBI's Audit will be notified about the amnesty program and informed about the requirements and deadlines. During the five-year period, owners of audit-identified properties with outstanding NOVs can apply by submitting an amnesty application which provides evidence of the structure's existing conditions. Applicants will be prioritized by DBI inspectors, who will verify existing conditions, including the extent of non-compliance with the Building Code. Property owners must resolve any Building Code violations. The City is not paying for any work property owners must complete to comply with the Building Code; it is just waiving fees and penalties for being out of compliance with the Building and Planning Codes.

After a DBI official confirms the status of the property, the Planning Department would be able to provide a non-conforming determination, effectively locking-in the state of the building indefinitely. Under normal circumstances, the Planning Code's existing non-conforming provisions only cover structures or uses that were once legal but later became illegal because of zoning changes. However, this ordinance allows properties to be deemed non-complying with Planning Code for amnesty purposes even if they were never legal to begin with, so long as they qualify with the criteria listed above.

Once final approval is granted, DBI and Planning would waive or refund all fees and penalties directly connected to the Audit-related NOV's and use the documented housing condition as a new baseline to prevent intensification of non-compliance. Once the amnesty application period closes, owners who have not taken advantage of the program will be subject to standard City enforcement mechanisms. If an NOV on a given property remains unresolved, no further Building and Planning permits may be issued, and the City may issue a lien on the property and file a lawsuit against the property owner.

### **FISCAL IMPACT**

By waiving and refunding fees and penalties, the City would forgo approximately \$924,226 in revenue it could have received through normal enforcement. DBI is forgoing approximately \$857,579 in revenue, representing about one percent of its FY 2025-26 budget. The Planning Department is forgoing \$66,647 in fee revenues, representing less than 0.5 percent of its FY 2025-26 budget.

Exhibit 1 below summarizes the sample-based projection of forgone fee revenue. DBI's fee revenue loss is estimated to be assuming \$50,000 of unpermitted work per property. The actual amount of forgone fee revenue is subject to change based on the actual work required to bring the property into compliance with the Building Code.

#### **Exhibit 1: Total Forgone Revenue Estimate**

<b>Category</b>	<b>Value</b>
DBI	\$857,5789
Planning	\$66,647
<b>Estimated Total</b>	<b>\$924,226</b>

Source: DBI and Planning

Although DBI has already concluded its Audit, DBI and Planning staff time will be needed to implement a streamlined review of amnesty applicants, resolve all NOV's by either documenting properties' existing conditions (if Planning Code violation) or approving properties after required renovations due to Building Code violations, and ensure the waived fees or refunds are properly administered. According to DBI, this unfunded work will equate to less than 1 percent of the annual workload.

**Funding Source**

Typically, fees and penalties collected from NOVs are used to cover the cost of enforcement. By foregoing this revenue, DBI and Planning will need to absorb these costs. According to DBI, this can be done by drawing on reserve funds. The Planning Department is planning to absorb the cost by reducing expenditures in the department's Enforcement Program.

**POLICY CONSIDERATION**

The proposed fee waivers assume property owners did not collude with Bernard Curran and Rodrigo Santos to undertake unpermitted building work. DBI's audit did not investigate those connections. As a result, the proposed planning code amnesty program and fee/penalty waivers may provide a financial benefit for illegal activity. At the same time, the investigation necessary to determine the extent of unethical behavior would almost certainly exceed the roughly \$900,000 in estimated fee waivers.

In addition, the DBI audit did not include approximately 10,000 properties that Bernard Curran was involved with during his career. DBI limited the audit to about 5,445 of 15,281 properties, focusing on same-day inspections scheduled by Curran and projects directly associated with Santos. Auditing all 15,281 properties could require an additional eight years of work beyond the nearly four years spent from May 2021 to January 2025 auditing approximately 5,000 properties. By not comprehensively auditing all properties, the full extent of permitting or inspection problems remains unknown. Buyers purchasing any of these properties could unknowingly inherit responsibility for correcting costly code violations and are not included in the proposed amnesty program.

**RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.