

File No. 240803

Committee Item No. 2

Board Item No. 3

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: July 28, 2025

Board of Supervisors Meeting:

Date: September 2, 2025

Cmte Board

☐	☐	Motion
☐	☐	Resolution
☒	☒	Ordinance - VERSION 3
☒	☒	Legislative Digest - VERSION 3
☐	☐	Budget and Legislative Analyst Report
☐	☐	Youth Commission Report
☒	☒	Introduction Form
☐	☐	Department/Agency Cover Letter and/or Report
☐	☐	MOU
☐	☐	Grant Information Form
☐	☐	Grant Budget
☐	☐	Subcontract Budget
☐	☐	Contract / DRAFT Mills Act Agreement
☐	☐	Form 126 – Ethics Commission
☐	☐	Award Letter
☐	☐	Application
☒	☒	Public Correspondence

OTHER

☒	☒	<u>BIC Transmittal – July 18, 2025</u>
☒	☒	<u>Planning Commission Transmittal – October 24, 2024</u>
☒	☒	<u>CEQA Determinations – July 3, 2025 and August 9, 2024</u>
☒	☒	<u>Referrals CEQA, Planning Commission, BIC, FYI</u>
		<u>- July 3, 2025 and August 8, 2024</u>
☒	☒	<u>Committee Report Request Memo – July 24, 2025</u>
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Prepared by: John Carroll

Date: July 25, 2025

Prepared by: John Carroll

Date: July 29, 2025

Prepared by: _____

Date: _____

[Planning, Building Codes - Unauthorized and Rent-Controlled Dwelling Units]

Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act, making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

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

Section 1. Environmental and Land Use Findings.

1 (a) The Planning Department has determined that the actions contemplated in this
2 ordinance comply with the California Environmental Quality Act (California Public Resources
3 Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of
4 Supervisors in File No. 240803 and is incorporated herein by reference. The Board affirms
5 this determination.

6 (b) On October 17, 2024, the Planning Commission, in Resolution No. 21627, adopted
7 findings that the actions contemplated in this ordinance are consistent, on balance, with the
8 City's General Plan and eight priority policies of Planning Code Section 101.1. The Board
9 adopts these findings as its own. A copy of said Resolution is on file with the Clerk of the
10 Board of Supervisors in File No. 240803, and is incorporated herein by reference.

11 (c) Pursuant to Planning Code Section 302, this Board finds that these Planning Code
12 amendments will serve the public necessity, convenience, and welfare for the reasons set
13 forth in Planning Commission Resolution No. 21627, and the Board adopts such reasons as
14 its own. A copy of said resolution is on file with the Clerk of the Board of Supervisors in File
15 No. 240803 and is incorporated herein by reference.

16 (d) On July 16, 2025, the Building Inspection Commission considered this ordinance at
17 a duly noticed public hearing pursuant to Charter Section 4.121 and Building Code
18 Section 104A.2.11.1.1.

19 (e) No local findings are required under California Health and Safety Code Section
20 17958.7 because the amendments to the Building Code contained in this ordinance do not
21 regulate materials or manner of construction or repair, and instead relate in their entirety to
22 administrative procedures for implementing the code, which are expressly excluded from the
23 definition of a "building standard" by California Health and Safety Code Section 18909(c).

Section 2. Articles 1.7, 2, and 3 of the Planning Code are hereby amended by revising Sections 175, 176, 206.3, 206.5, 206.6, 207, 207.1, 249.94, 306.1, and 317, to read as follows:

SEC. 175. APPROVAL OF PERMITS OR DEVELOPMENT APPLICATIONS.

(a) No application for a building permit, Development Application, or other permit or license, or for a permit of Occupancy, shall be approved by the Planning Department, and no permit or license shall be issued by any City department, which would authorize a new use, a change of use or maintenance of an existing use of any land or structure contrary to the provisions of this Code.

* * * *

(f) Whenever this Code requires a property owner to enter into a regulatory agreement with the City subjecting any dwelling units to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), the Planning Department shall note the existence of the recorded regulatory agreement on a publicly-accessible website.

SEC. 176. ENFORCEMENT AGAINST VIOLATIONS.

* * * *

(c) Penalties.

(1) Administrative Penalties.

(A) General Violations. The Zoning Administrator, by issuance of the NOV, may assess upon the Responsible Party an administrative penalty for each violation in an amount up to \$1,000 for each day the violation continues unabated. For purposes of this subsection (c)(1)(A), each real property address, and each commercial or dwelling unit within a multi-unit real property address, affected by a violation is a distinct violation for calculation of applicable administrative penalties. Notwithstanding the foregoing, a violation of this Code that

affects a common area, feature, or shared detached feature of a multi-unit structure may be treated as a distinct violation of this Code, at the reasonable discretion of the Zoning Administrator. Misrepresentations made on any Applications or plans submitted to the Planning Department shall also constitute a violation of this Code for the purposes of this Section 176. The NOV may be appealed in the manner provided in subsection (c)(1)(~~DE~~).

* * * *

(C) **Penalties for Specified Violations.**

* * * *

(iii) Misrepresentations of Material Tenant Information on Development Application. For misrepresentation of material information within any Development Application or Building Permit involving a failure to disclose the presence of tenants or a misrepresentation of tenant history at a site, the Responsible Party shall be liable for a penalty of up to \$150,000 upon issuance of an NOV. In determining the appropriate penalty amount, if any, the Zoning Administrator or the Zoning Administrator's designee shall consider:

- a. whether the misrepresentation was intentional, grossly negligent, or negligent;
- b. the financial gain to the Responsible Party;
- c. the degree to which the project would have been affected (including, for example, the number of project units affected);
- d. the number and frequency of misrepresentations by the Responsible Party;
- e. efforts made by the Responsible Party to correct the misrepresentation;
- f. such other factors as the Zoning Administrator determines to be relevant, based on the particular facts and circumstances of the misrepresentation; and

1 g. such other factors as the Planning Commission determines to
2 be relevant following a public hearing.

3 Within 12 months of the effective date of the ordinance in Board File No. 240803 amending this
4 Section 176, the Planning Commission shall adopt any additional relevant factors and criteria for
5 consideration, to be updated as necessary or appropriate from time to time, to provide guidance to the
6 Zoning Administrator when determining the appropriate penalty amount for violations subject to this
7 subsection (c)(1)(C)(iii).

8 * * * *

9
10 **SEC. 206.3. HOUSING OPPORTUNITIES MEAN EQUITY - SAN FRANCISCO**
11 **PROGRAM.**

12 * * * *

13 **(e) Implementation.**

14 * * * *

15 **(5) Regulatory Agreements.** Recipients of development bonuses under this
16 Section 206.3 shall enter into a Regulatory Agreement with the City, as follows.

17 (A) The terms of the agreement shall be acceptable in form and content
18 to the Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director
19 shall have the authority to execute such agreements.

20 (B) Following execution of the agreement by all parties, the completed
21 Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions filed
22 and recorded on the Housing Project. The Planning Department shall note the existence of any
23 recorded Regulatory Agreement applicable to the Housing Project on a publicly-accessible website.

24 * * * *

1 **SEC. 206.5. STATE RESIDENTIAL DENSITY BONUS PROGRAM: ANALYZED.**

2 * * * *

3 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession,
4 waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.

5 (1) The terms of the agreement shall be acceptable in form and content to the
6 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall
7 have the authority to execute such agreements.

8 (2) Following execution of the agreement by all parties, the completed Density
9 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions
10 filed and recorded on the Housing Project. The Planning Department shall note the existence of
11 any recorded Regulatory Agreement applicable to the Housing Project on a publicly-accessible
12 website.

13
14 **SEC. 206.6. STATE DENSITY BONUS PROGRAM: INDIVIDUALLY REQUESTED.**

15 * * * *

16 (f) **Regulatory Agreements.** Recipients of a Density Bonus, Incentive, Concession,
17 waiver, or modification shall enter into a Regulatory Agreement with the City, as follows.

18 (1) The terms of the agreement shall be acceptable in form and content to the
19 Planning Director, the Director of MOHCD, and the City Attorney. The Planning Director shall
20 have the authority to execute such agreements.

21 (2) Following execution of the agreement by all parties, the completed Density
22 Bonus Regulatory Agreement, or memorandum thereof, shall be recorded and the conditions
23 filed and recorded on the Housing Project. The Planning Department shall note the existence of
24 any recorded Regulatory Agreement applicable to the Housing Project on a publicly-accessible
25 website.

* * * *

SEC. 207. DWELLING UNIT DENSITY LIMITS.

* * * *

(c) **Exceptions to Dwelling Unit Density Limits.** An exception to the calculations under this Section 207 shall be made in the following circumstances:

* * * *

(8) **Residential Density Exception in RH Districts.**

* * * *

(E) **Applicability of Rent Ordinance; Regulatory Agreements.** Project sponsors of projects utilizing the density exception of this subsection (c)(8) shall enter into a regulatory agreement with the City, subjecting the new units or Group Housing rooms created pursuant to the exception to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code), as a condition of approval of the density exception ("Regulatory Agreement"). At a minimum, the Regulatory Agreement shall contain the following: (i) a statement that the new units created pursuant to the density exception are not subject to the Costa-Hawkins Rental Housing Act (California Civil Code Sections 1954.50 et seq.) because, under Section 1954.52(b), the property owner has entered into and agreed to the terms of this agreement with the City in consideration of an exception from residential density limits of up to four dwelling units per lot, or up to six units per lot in Corner Lots, or other direct financial contribution or other form of assistance specified in California Government Code Sections 65915 et seq.; (ii) a description of the exception of residential density or other direct financial contribution or form of assistance provided to the property owner; and (iii) a description of the remedies for breach of the agreement and other provisions to ensure implementation and compliance with the agreement. The property owner and the

1 Planning Director (or the Director's designee), on behalf of the City, will execute the
2 Regulatory Agreement, which shall be reviewed and approved by the City Attorney's Office.
3 The Regulatory Agreement shall be executed prior to the City's issuance of the First
4 Construction Document for the project, as defined in Section 107A.13.1 of the San Francisco
5 Building Code. Following execution of the Regulatory Agreement by all parties and approval
6 by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be recorded
7 to the title records in the Office of the Assessor-Recorder against the property and shall be
8 binding on all future owners and successors in interest. The Planning Department shall note the
9 existence of any recorded Regulatory Agreement applicable to the new units on a publicly-accessible
10 website.

11 * * * *

12
13 **SEC. 207.1. LOCAL ACCESSORY DWELLING UNIT PROGRAM.**

14 * * * *

15 (h) **Regulatory Agreements.** A Regulatory Agreement required by subsection
16 207.1(g) as a condition of approval of an Accessory Dwelling Unit shall contain the following:

17 * * * *

18 (5) Following execution of the Regulatory Agreement by all parties and
19 approval by the City Attorney, the Regulatory Agreement or a memorandum thereof shall be
20 recorded against the property and shall be binding on all future owners and successors in
21 interest. The Planning Department shall note the existence of any recorded Regulatory Agreement
22 applicable to the ADU on a publicly-accessible website.

23 * * * *

1 **SEC. 249.94. FAMILY AND SENIOR HOUSING OPPORTUNITY SPECIAL USE**
2 **DISTRICT.**

3 * * * *

4 **(e) Applicability of Rent Ordinance; Regulatory Agreements.**

5 (1) Sponsors of projects utilizing any of the density exceptions above the base
6 density up to the limits in subsection (d)(1) of this Section 249.94 shall enter into a regulatory
7 agreement with the City subjecting the new units created pursuant to such density exception,
8 except for any required Affordable Units as defined in Planning Code Section 401, to the
9 Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative
10 Code), as a condition of approval of the density exception ("Regulatory Agreement").

11 (2) The property owner and the Planning Director, or the Director's designee,
12 on behalf of the City, will execute the Regulatory Agreement, which is subject to review and
13 approval by the City Attorney's Office. The Regulatory Agreement shall be executed prior to
14 the City's issuance of the First Construction Document for the project, as defined in Section
15 107A.13.1 of the Building Code. Following execution of the Regulatory Agreement by all
16 parties and approval by the City Attorney, the Regulatory Agreement or a memorandum
17 thereof shall be recorded in the title records in the Office of the Assessor-Recorder against the
18 property and shall be binding on all future owners and successors in interest. The Planning
19 Department shall note the existence of any recorded Regulatory Agreement applicable to the new units
20 on a publicly-accessible website.

21 * * * *

22
23 **SEC. 306.1. APPLICATIONS AND FILING FEES.**

24 * * * *

1 (c) **Content of Applications.** The content of applications shall be in accordance with
2 the policies, rules and regulations of the Planning Department, Zoning Administrator, ~~and the~~
3 Planning Commission. All applications shall be upon forms prescribed therefor, and shall
4 contain or be accompanied by all information required to assure the presentation of pertinent
5 facts for proper consideration of the case and for the permanent record. The applicant may be
6 required to file with ~~his~~their application the information needed for the preparation and mailing
7 of notices as specified in Section 306.3, and the information required by subsection 317(j). In
8 addition to any other information required by the Planning Department, ~~the~~ Zoning
9 Administrator, ~~and the~~ Planning Commission, an applicant for a conditional use
10 ~~permit~~authorization or variance who proposes a commercial use for the subject property shall
11 disclose the name under which business will be, or is expected to be, conducted at the
12 subject property, if such name is known at the time of application. The term "known" shall
13 mean actual, not imputed knowledge, and shall consist of direct evidence including but not
14 limited to a contract of sale, lease, or rental, or letter of intent or agreement, between the
15 applicant and a commercial entity. If the business name becomes known to the applicant
16 during the conditional use permit or variance processing period, the applicant promptly shall
17 amend the application to disclose such business name.

18 (d) **Verification.** Each application filed by or on behalf of one or more property owners
19 shall be verified by at least one such owner or ~~his~~ their authorized agent attesting to the truth
20 and correctness of all facts, statements and information presented. All applications shall
21 include the following statement: "The information contained in this application is true and
22 complete to the best of my knowledge, based upon diligent inquiry. This application is signed
23 under penalty of perjury. I understand that willful or material misstatement(s) or omissions in
24 the application may result in the ~~rejection~~cancellation of the application and a lapse of time
25 before the application may be resubmitted." The Zoning Administrator may ~~reject a conditional~~

1 ~~use or variance~~cancel any Development Application as inaccurate and may require the applicant
2 to re-file the application where the Zoning Administrator determines that the application
3 includes material misstatements or omissions; provided, however, where the material
4 misstatements or omissions relate to the presence or number of Unauthorized Dwelling Units or
5 tenants on the property, the Zoning Administrator shall cancel any development application as
6 inaccurate and shall require the applicant to re-file the application. Such ~~rejection~~cancellation shall
7 not be considered to be a denial of the application on its merits. Where the Zoning
8 Administrator determines that such material misstatements or omissions were made willfully,
9 the Zoning Administrator may require that the applicant wait up to ~~6~~six months before re-filing
10 an application for substantially the same project. The Zoning Administrator's action in this
11 regard may be appealed to the Board of Appeals pursuant to Section 308.2 of this Code.

12 * * * *

13
14 **SEC. 317. LOSS OF RESIDENTIAL AND UNAUTHORIZED UNITS THROUGH**
15 **DEMOLITION, MERGER, AND CONVERSION.**

16 * * * *

17 **(i) Disclosure of Unauthorized Units.**

18 **(1) Disclosure Required.** All Development Applications shall disclose the presence of
19 any Unauthorized Unit at the subject property. In addition to the verification required by Planning
20 Code subsection 306.1(d), any Development Application that does not identify an Unauthorized Unit at
21 the subject property shall include a declaration, signed under penalty of perjury by the owner(s) or
22 owner's authorized agent, that no Unauthorized Units exist at the property.

23 **(2) Application Contents.** All Development Applications shall require the applicant to
24 report certain information that may suggest the presence of Unauthorized Units at the property. The
25

1 Planning Department shall develop, and publish on the Department's website, a list of such
2 information, which shall include, at minimum:

3 (A) The number of dwelling units at the property, and, to the best of the
4 applicant's knowledge, whether any units or bedrooms have been rented in the prior 10 years.

5 (B) For each unit that has been rented, the number of bedrooms in such unit.

6 (C) The number of mailboxes at the property.

7 (D) The number of utility meters at the property.

8 (3) **Planning Department Investigation.** If the application states that the property does
9 not contain any Unauthorized Unit, but the information contained in the application leads Department
10 staff to reasonably believe that an Unauthorized Unit may exist on the property, Department staff shall
11 investigate whether the property contains any Unauthorized Unit. Such investigation may include
12 research into property and Residential Rent Stabilization and Arbitration Board rental records,
13 inspection of the property, or review of evidence of prior tenancy submitted by current and former
14 owners, tenants, and neighbors. Department staff shall review and consider inspection reports and
15 notices of violation prepared by the Department of Building Inspection and any relevant information
16 contained in the Department's files for the property. If, after conducting an investigation, the
17 Department determines that the Development Application failed to disclose any Unauthorized Unit, the
18 Department shall cancel the Development Application as inaccurate pursuant to Section 306.1(d).

19 (k) **Department Inspection.** Prior to recommending approval of Residential Demolition,
20 Conversion, or Merger, the Department shall inspect the property. The Department's inspection shall
21 attempt to establish whether the property contains rental units and whether any rental units are
22 occupied. The Department shall also request information from the Residential Rent Stabilization and
23 Arbitration Board that indicates whether any rental units on the property are subject to the Residential
24 Rent Stabilization and Arbitration ordinance.

Section 3. Chapter 1A of the Building Code, Section 103A, is hereby amended by revising Section 103A.6 (specifically Sections 103A.6.1, 103A.6.3.1, and 103A.6.4.2; Section 103A.6.2 reprinted for informational purposes only), to read as follows:

103A.6 Expanded Compliance Control and permit review.

103A.6.1 Significant violation tracking reports. When any of the following occur:

(a) a building inspector issues a Notice of Violation in which there is an instance of any of the following:

- (1) Misrepresentation of existing conditions or project scope that results in circumvention of notification or review requirements;
- (2) Structural work or demolition of structural features without or beyond the scope of a building permit;
- (3) Work under permit performed by a party without required license; or
- (4) Other substantial non-compliance;

(b) any individual, agent, or entity with business before the Department is convicted of any offense involving fraud, willful misrepresentation, or the making of any willfully inaccurate or false statement associated with a permit application or project considered by the City, or any offense involving bribery or other unlawful influence of a City official or employee; or

(c) the Planning Department notifies the Department that the Planning Department has identified a significant misrepresentation of existing conditions or project scope that has resulted in a failure to disclose or represent any Unauthorized Unit in any permit application submitted to the Department;

Inspection Services Division shall log the violation described in subsections (a), (b), or (c) above, and identify all individuals, agents, and ~~other~~ entities associated with the permit and/or project in the Permit Tracking System (or other system of record) or known to be associated with

1 the permit and/or project at the time the Notice of Violation is issued, or the violation described
2 in subsections (b) or (c) is discovered, in the Compliance Control Tracking File maintained by the
3 Inspection Services Division. The Compliance Control Tracking File is for internal purposes
4 only; an individual, agent, or entity's presence in the file does not indicate responsibility for
5 any violation or misconduct. For purposes of Section 103A.6, "Unauthorized Unit" shall have the
6 same meaning as in Planning Code Section 317(b).

7 **103A.6.2 Candidates for Expanded Compliance Control.**

8 (1) The Inspection Services Division shall review the Compliance Control Tracking
9 File on a monthly basis to determine if any project, individual, agent, or entity has been
10 associated with three or more reported violations described in 103A.6.1 within the last 18
11 months. Any such project, individual, agent, or entity shall be a candidate for Expanded
12 Compliance Control.

13 (2) Even if the three-or-more-violations standard is not met during the 18-month
14 period, the Department, in consultation with the City Attorney, may designate a project,
15 individual, agent, or entity as a candidate for Expanded Compliance Control for any violation
16 or violations that the Department determines, individually or together, to be egregious and
17 create significant risk to health, safety, or property.

18 **103A.6.3 Expanded Compliance Control List.**

19 **103A.6.3.1 Factors.** In determining whether to include any candidate on the Expanded
20 Compliance Control List, the following factors shall be considered: the candidate's role and
21 conduct that contributed to the violations; any impacts on individual or public health, and
22 safety; whether the misrepresentation of existing conditions or the misrepresentation of
23 project scope was reckless or intentional to avoid permit review or notification requirements,
24 including any omission or misrepresentation regarding the presence of any Unauthorized Unit; the
25 extent of the demolition or work that occurred without or beyond the scope of a building permit

or without the necessary license or certification; any impacts on historically significant structures; prospective undervaluation of the construction cost that resulted in lower permit fees from the violations; and the number, frequency, and severity of violations.

* * * *

103A.6.4.2 Measures. Upon placing a project, individual, agent, or entity on the Expanded Compliance Control List, the Department shall take the following actions:

(1) Refer the listee to any applicable licensing board or regulatory agency with the Director's final determination and written findings;

(2) Require all existing permit applications and addenda and any new applications or addenda submitted by or containing reference to the listee undergo Expanded Compliance Control by senior Plan Review Services staff and multi-station (all permit stations applicable to a given permit) review at intake and after the Planning Department approves the Site Permit (if applicable); and notify all parties listed on the applications or addenda for these permits of the Expanded Compliance Control requirement;

(3) Require site inspections by the Department of Building Inspection and Planning Department prior to issuing any permit submitted by or containing reference to the listee;

(4) Require that a licensed contractor be named on the permit prior to issuance, unless the applicant is filing for the permit as an Owner-Builder, in conformance with California Health and Safety Code Section 19825;

(5) Dedicate a Senior Inspector to perform inspections and respond to any complaints or requests regarding the listee;~~and~~

(6) If warranted, consult with the City Attorney about any additional enforcement actions;and

1 (7) If warranted, after consultation with the City Attorney, refer the listee to the
2 District Attorney with the Director's final determination and written findings.

3 * * * *

4 Section 4. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

14
15 APPROVED AS TO FORM:
16 DAVID CHIU, City Attorney

17 By: /s/ Peter Miljanich
18 PETER MILJANICH
 Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(Amended in Committee – July 28, 2025)

[Planning, Building Codes - Unauthorized and Rent-Controlled Dwelling Units]

Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act, making findings of consistency with the General Plan and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Existing Law

Various sections of the Planning Code require a property owner to enter into a regulatory agreement with the City subjecting certain dwelling units to the San Francisco Residential Rent Stabilization and Arbitration Ordinance (Chapter 37 of the Administrative Code) in exchange for waiver of certain Planning Code requirements.

Planning Code Section 176 sets forth the methods of enforcement and penalties for violations of the Planning Code.

Planning Code Section 306.1 sets forth the required contents of development applications, and requires property owners or their agents to verify the truth and correctness of all facts, statements and information presented in the application.

Planning Code Section 317 establishes procedures and controls for the removal of Dwelling Units, including through Demolition, Merger, and Conversion of Dwelling Units.

Building Code Section 103A.6 establishes the Department of Building Inspection's Expanded Compliance Control program, under which DBI tracks significant violations of the Building Code, places significant violators on an Expanded Compliance Control List, and applies additional scrutiny to applications and work involving listed violators.

Amendments to Current Law

This ordinance would require the Planning Department to note the existence of any recorded regulatory agreement on the Property Information Map entry for the subject property or other similar, publicly-accessible website.

This ordinance would amend Planning Code Section 176 to establish specific penalties for misrepresentation of material information related to tenant history within any Development Application or Building Permit application.

This ordinance would amend Planning Code Section 306.1 to require the Zoning Administrator to cancel any Development Application, and to require the applicant to re-file the application, where the Zoning Administrator determines that the application includes material misstatements or omissions regarding the presence or number of Unauthorized Dwelling Units or tenants on the property.

This ordinance would amend Planning Code Section 317 to require applicants to disclose the presence of any Unauthorized Dwelling Units at the property and to include certain information in any Development Application that may suggest the presence of Unauthorized Units at the property. This ordinance would also require the Planning Department to investigate whether the property contains an Unauthorized Unit if the application states that the property does not contain an Unauthorized Unit, but the information contained in the application leads Department staff to reasonably believe that an Unauthorized Unit may exist on the property.

This ordinance would expand the types of the violations that could result in listing in the Department of Building Inspection's Expanded Compliance Control program. Listing could occur when: (1) any individual, agent, or entity with business before the Department is convicted of any offense involving fraud, willful misrepresentation, or the making of any willfully inaccurate or false statement associated with a permit application or project considered by the City, or any offense involving bribery or other unlawful influence of a City official or employee; or (2) the Planning Department notifies the Department of Building Inspection that the Planning Department has identified a significant misrepresentation of existing conditions or project scope that has resulted in a failure to disclose or represent any Unauthorized Unit in any permit application submitted to the Department of Building Inspection.

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BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection

Voice (628) 652 -3510

49 South Van Ness Avenue, 5th Floor San Francisco, California 94103

July 18, 2025

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Mayor

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Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 240803-2

Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

The Code Advisory Committee met on July 7, 2025 to consider adoption of File No. 240803-2 to expand the Department of Building Inspection's (DBI) Expanded Compliance Control Program, to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to permit applications. The committee voted unanimously to recommend the Building Inspection Commission approve File No. 240803-2.

The Building Inspection Commission met and held a public hearing on July 16, 2025 regarding the proposed amendment to the Planning and Building Codes contained in Board File No. 240803-2.

The Commissioners voted unanimously to **recommend approval of the Ordinance.**

President Alexander-Tut	Excused
Vice-President Meng	Yes
Commissioner Calamuci	Yes
Commissioner Chavez	Yes
Commissioner Neumann	Yes
Commissioner Williams	Yes

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,



Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor Daniel Lurie
Supervisor Myrna Melgar
Board of Supervisors



October 24, 2014

Ms. Angela Calvillo, Clerk
Honorable Supervisor Melgar
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: **Transmittal of Planning Department Case Number 2024-007339PCA:**
Unauthorized and Rent-Controlled Dwelling Units
Board File No. 240803

Planning Commission Recommendation: **Approval with Modification**

Dear Ms. Calvillo and Supervisor Melgar,

On October 17, 2024, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider a proposed Ordinance, introduced by Supervisor Melgar. The proposed ordinance would amend the Planning Code concerning unauthorized dwelling units and units subject to the San Francisco Residential Rent Stabilization and Arbitration Ordinance. At the hearing the Planning Commission adopted a recommendation for approval with modifications.

The Commission's proposed modifications were as follows:

1. Remove the proposed reporting program from the ordinance, and instead work with DBI's to expand their Expanded Compliance and Control Program to include misrepresentation on Planning applications.
2. Modify the language under 317(j)(3) Planning Department Investigation to read "Such investigation may include research into property and Residential Rent Stabilization and Arbitration Board rental records, inspection of the property, or review of evidence of prior tenancy submitted by interviews with current and former owners, tenants, and neighbors, ~~and inspection of the property.~~"
3. Amend the definition of UDU to include a 10-year limit.

- "Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property within the last 10 years.
4. Amend the applicability of the proposed penalty fee to only apply to significant misrepresentations on plans and have the Planning Commission define what significant is.
 5. Remove reference to the Planning Department's Property Information Map (PIM) and replace it with a more generic term.

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commission.

Please find attached documents relating to the actions of the Commission. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,



Aaron D. Starr
Manager of Legislative Affairs

cc: Peter R. Miljanich, Deputy City Attorney
Jennifer Fieber, Aide to Supervisor Melgar
John Carroll, Office of the Clerk of the Board

ATTACHMENTS :

Planning Commission Resolution
Planning Department Executive Summary



PLANNING COMMISSION RESOLUTION NO. 21627

HEARING DATE: OCTOBER 17, 2024

Project Name: Unauthorized and Rent-Controlled Dwelling Units
Case Number: 2024-007339PCA [Board File No. 240803]
Initiated by: Supervisor Melgar / Introduced July 30, 2024
Staff Contact: aaron starr, Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533
Reviewed by: Aaron D Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

RESOLUTION ADOPTING A RECOMMENDATION FOR APPROVAL OF A PROPOSED ORDINANCE THAT WOULD AMEND THE PLANNING CODE TO REQUIRE THE PLANNING DEPARTMENT TO INVESTIGATE THE PRESENCE AND NUMBER OF UNAUTHORIZED DWELLING UNITS AT PROPERTIES SUBJECT TO A DEVELOPMENT APPLICATION; REFER DESIGN PROFESSIONALS THAT FAIL TO DISCLOSE THE PRESENCE OF UNAUTHORIZED DWELLING UNITS TO ANY APPLICABLE LICENSING BOARD OR REGULATORY AGENCY; POST ONLINE WHETHER A PROPERTY IS SUBJECT TO A REGULATORY AGREEMENT SUBJECTING ANY UNITS ON THE PROPERTY TO THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE; AND INSPECT PROPERTIES PRIOR TO RECOMMENDING APPROVAL OF ANY LOSS OF A RESIDENTIAL UNIT OR UNAUTHORIZED DWELLING UNIT; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN, AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE, SECTION 101.1.

WHEREAS, on July 30, 2024 Supervisor Melgar introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 240803, which would amend the Planning Code to require the Planning Department to investigate the presence and number of Unauthorized Dwelling Units at properties subject to a Development Application; refer design professionals that fail to disclose the presence of Unauthorized Dwelling Units to any applicable licensing board or regulatory agency; post online whether a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit;

WHEREAS, the Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on October 14, 2024; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15378 and 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the Custodian of Records, at 49 South Van Ness Avenue, Suite 1400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

WHEREAS, the Planning Commission finds from the facts presented that the public necessity, convenience, and general welfare require the proposed amendment; and

MOVED, that the Commission hereby adopts a **recommendation for approval with modifications** of the proposed ordinance. The Commission’s proposed recommendation(s) is/are as follows:

1. Remove the proposed reporting program from the ordinance, and instead work with DBI’s to expand their Expanded Compliance and Control Program to include misrepresentation on Planning applications.
2. Modify the language under 317(j)(3) *Planning Department Investigation* to read “Such investigation may include research into property and Residential Rent Stabilization and Arbitration Board rental records inspection of the property, or review of evidence of prior tenancy submitted by ~~interviews with current and former owners, tenants, and neighbors, and inspection of the property.~~”
3. Amend the definition of UDU to include a 10-year limit.
 - "Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property within the last 10 years.
4. Amend the applicability of the proposed penalty fee to only apply to significant misrepresentations on plans and have the Planning Commission define what significant is.
5. Remove reference to the Planning Department’s Property Information Map (PIM) and replace it with a more generic term.

Findings

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

The Commission supports the proposal because it aims to preserve existing rent-controlled units and protect tenants from displacement. Given the informal nature of many UDUs, tenants living in them are especially vulnerable to displacement. Additionally, the Commission has encountered several instances where applicants have deliberately misled us about the existence of these units. There are often no consequences for such actions, leaving little to deter applicants from lying about UDUs. This ordinance seeks to address that by imposing a penalty fee and professional repercussions for non-compliant design professionals.

General Plan Compliance

The proposed Ordinance is consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Policy 1

Minimize no-fault and at-fault evictions for all tenants, and expand direct rental assistance as a renter stabilization strategy.

The proposed ordinance is consistent with this policy because it seeks to minimize evictions by ensuring that UDUs are not demolished or removed without going through proper procedures.

Policy 4

Facilitate the legalization of unauthorized dwelling units while improving their safety and habitability.

The proposed ordinance is consistent with this policy in that it will help facilitate the legalization of unauthorized units by ensuring that they are properly identified and not removed without review by the Planning Commission.

Policy 21

Prevent the potential displacement and adverse racial and social equity impacts of zoning changes, planning processes, or public and private investments especially for populations and areas vulnerable to displacement.

Unauthorized units are often removed due to private investment into real estate. The proposed ordinance is consistent with this policy because it will help ensure that proper procedure is followed when such investments are made so that tenants are not unduly displaced.

Planning Code Section 101 Findings

The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would have a positive effect on housing or neighborhood character by ensuring that existing units are not removed without proper procedure and review.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Planning Code Section 302 Findings.

The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby ADOPTS A RECOMMENDATION FOR APPROVAL WITH MODIFICATIONS the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on October 17, 2024.



Jonas P. Ionin
Commission Secretary

Jonas P Ionin

Digitally signed by Jonas P Ionin
Date: 2024.10.22 17:20:44 -07'00'

AYES: Campbell, McGarry, Williams, Braun, Moore, So
NOES: None
ABSENT: Imperial
ADOPTED: October 17, 2024



EXECUTIVE SUMMARY

PLANNING CODE TEXT AMENDMENT

HEARING DATE: October 17, 2024

90-Day Deadline: November 5, 2024

Project Name: Unauthorized and Rent-Controlled Dwelling Units
Case Number: 2024-007339PCA [Board File No. 240803]
Initiated by: Supervisor Melgar / Introduced July 30, 2024
Staff Contact: Aaron Starr, Manager of Legislative Affairs
aaron.starr@sfgov.org, 628-652-7533

Environmental

Review: Not a Project Under CEQA

RECOMMENDATION: Adopt of Recommendation for Approval with Modifications

Planning Code Amendment

The proposed Ordinance would amend the Planning Code to require the Planning Department to investigate the presence and number of Unauthorized Dwelling Units (hereinafter UDU) at properties subject to a Development Application; refer design professionals that fail to disclose the presence of Unauthorized Dwelling Units to any applicable licensing board or regulatory agency; post online whether a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit.

	The Way It Is Now:	The Way It Would Be:
1	The Planning Department's <u>policy</u> is to do a site visit to the subject property when a unit is proposed to be removed under Planning Code Section 317.	The Planning Code will require Planning staff to do a site visit when a dwelling unit is proposed to be removed under Code Section 317.
2	The Planning Department uploads the Notice of Special Restrictions (NSR) onto our Property Information Map (PIM) data base for projects that enter into a regulatory agreement subjecting any units on the property to the Residential Rent Stabilization and Arbitration Ordinance. This is often done for ADUs approved under our local program.	The Planning Code will require the Department to note the existence of the recorded regulatory agreement on the Property Information Map (or other similar, publicly accessible website) whenever the Code requires a property owner to enter into a regulatory agreement with the City subjecting any dwelling units to the San Francisco Residential Rent Stabilization and Arbitration Ordinance.
3	Planning Code violations are subject to fines and penalties; however, misrepresentations on plans generally do not result in penalties and are not considered a violation of the Planning Code.	Misrepresentations made on any applications or plans, including failure to disclose or misrepresentation of tenant history at a site submitted to the Planning Department would constitute a violation of the Planning Code under Section 176. The applicant would then be liable for a penalty of up to \$250,000 upon issuance of a notice of violation.
4	The Code stipulates that the Zoning Administrator may reject any Development Application as inaccurate and may require the applicant to re-file the application where the Zoning Administrator determines that the application includes material misstatements or omissions.	The Planning Code would now direct the Zoning Administrator to cancel an application instead of rejecting them. The Code would further be amended to direct the Zoning Administrator to cancel any development application as inaccurate and shall require the applicant to re-file the application where they determine that the application includes material misstatements or omissions regarding the presence or number of Unauthorized Dwelling Units or tenants on the property.
5	Disclosure of existing Unauthorized Dwelling Units is not required on applications unless there is a proposal to remove a UDU or if staff suspects there is a UDU on site.	The Planning Code would require all development applications under Section 317 of the Planning Code to disclose the presence of any Unauthorized Dwelling Units at the subject property.

6	The Department uses a screening form to detect any unauthorized dwelling unit on proposed plans. We also conduct a site visit when a dwelling unit is proposed for removal under Section 317 of the Planning Code; however, we do not typically perform a proactive investigation into the rental history of a property.	Under Section 317, the Planning Code would require Department staff to investigate whether the property contains any Unauthorized Unit if the application states that the property does not contain any Unauthorized Unit, but the information contained in the application leads Department staff to reasonably believe that an Unauthorized Unit may exist on the property.
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Background

San Francisco began protecting UDUs in early 2016 with the adoption of [Ordinance 33-16](#) (BF 160115), sponsored by Supervisor Avalos. The ordinance aimed to protect tenants living in informal units—those established without permits and often substandard—from displacement. It added the definition of UDUs to the Planning Code and included them within the controls of Planning Code Section 317, which requires Conditional Use authorization for the removal of any dwelling unit, including UDUs. Although there have been few changes to these controls or the definition of UDUs since then, the Planning Department has adapted its application procedures to better identify UDUs. Unfortunately, some unscrupulous applicants have also adapted, and we often discover the presence of a UDU only after an application has been brought to the Planning Commission or sent out for notice. There is little deterrent for applicants who misrepresent conditions on their plans. This ordinance seeks to address that.

Issues and Considerations

The Expanded Compliance Control Program

The [Expanded Compliance Control Program](#) (ECC) was created in 2021 to ensure that contractors, design professionals, building owners, and their agents fully comply with the City of San Francisco’s Building Code. The ECC program requires the Department of Building Inspection (DBI) to track significant violations, and all parties associated with such violations, review those tracking reports to identify candidates for expanded compliance control measures and, when appropriate, place them on the Expanded Compliance Control List.

San Francisco Building Code Section 103A.6 mandates that the Department perform the following Expanded Compliance Control measures for everyone placed on the Expanded Compliance Control List:

- Provide the Director’s final determination and findings to any applicable licensing board or regulatory agency (if any)
- Require all new or existing permits or addenda submitted by, or containing reference to, a listee undergo Expanded Compliance Control by senior Plan Review Services staff and review at intake by applicable departments
- Notify the listee and all other parties associated with the listee on a permit application or addenda of the Expanded Compliance Control requirements
- Require a licensed contractor be named on a permit

- Require site inspection by DBI and the Planning Department prior to permit issuance for projects associated with the listee
- Dedicate a senior inspector to respond to complaints and conduct all inspections regarding the listee
- Consult with City Attorney, if warranted, about any other enforcement options

Proposed Reporting Program

The proposed ordinance proposes a program that has similarities with DBI's Expanded Compliance Control Program. Both programs have an outcome that results in bad actors being referred to their respective professional organizations; however, the ECC program puts future applications by those individuals under additional scrutiny. The following are some other key differences between the programs:

- The proposed program would only focus on misrepresenting UDUs on plans or applications submitted to the Planning Department. Being placed in the ECC program can result from a myriad of different DBI violations, but not Planning Code violations. The ECC program also specifies that the violations must be "significant."
- Under the proposed program, only one determination that an applicant failed to disclose an UDU could result in the design professional being referred to their relevant licensing board. The ECC program generally goes by a three-strikes rule before any professional is placed on any compliance list or referred to their relevant licensing board.
- Under the proposed program, the Zoning Administrator makes the determination as to whether the applicant has lied on their application, and if the design professional should be referred to the relevant licensing board. Under the ECC, the Department of Building Inspection's Director makes the ultimate decision whether someone is placed in ECC program.
- Under the proposed program the Zoning Administrator's determination can be appealed to the Planning Commission. ECC program placement is appealable to the Building Inspection Commission.

Unauthorized (Dwelling) Unit Definition

An Unauthorized (Dwelling) Unit (hereinafter UDU) is defined in Planning Code Section 317(b)(13) as follows: *"Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property. "Independent" shall mean that (i) the space has independent access that does not require entering a Residential Unit on the property and (ii) there is no open, visual connection to a Residential Unit on the property."*

The definition relies on how a space has been or is being used, and physical characteristics. The physical characteristics are easily reflected on plans. Planners can also verify physical characteristics with a site visit. It also possible to tell if the qualifying space is currently being used by tenants; however, it's impossible to determine from plans or a site inspection if rooms have been used as living space at any time in the past. How a space is or has been used is an integral part in determining if a UDU is present on the property. Yet a significant part of what qualifies a UDU cannot be determined by arcuate plans or a site inspection.

Failure to identify a UDU in the plans or on an application would subject the design professional to the proposed reporting program. This in turn could jeopardize their professional license. There is a difference between a design professional misrepresenting current or proposed conditions on plans, and not disclosing past activities of which they may have no knowledge. The proposed program, however, places a significant burden on the design professional. It requires them to know past activities on the site, or risk jeopardizing their professional license.

Investigation

The proposed ordinance would require Department staff to investigate whether the property contains any UDUs. This investigation is triggered if the information contained in the application leads Department staff to reasonably believe that an UDU may exist on the property. To complete this investigation the code would direct planning staff to “conduct research into property and Residential Rent Stabilization and Arbitration Board rental records, interviews with current and former owners, tenants, and neighbors, and inspection of the property.” It further stipulates that Department staff shall review and consider inspection reports and notices of violation prepared by the Department of Building Inspection and any relevant information contained in the Property Information Map and the Department’s annual Housing Inventory.

The Department already uses many of these tools to assess potential UDUs at a property; however, we typically do not interview current or former owners, tenants, or neighbors. As a regulatory agency, our focus is on the physical characteristics of buildings and information from official records, not informal accounts. Due to time and resource constraints, we do not pursue past owners or tenants. Our investigations focus on physical indicators such as separate entrances, kitchens, mailboxes, and distinct electrical and water meters. We also review voter rolls, DBI records, notices of violation, Rent Board records, and other relevant documentation.

Proposed Penalties

The proposed ordinance also creates a new penalty of up to \$250,000 for *any* misrepresentation of material information within any Development Application or Building Permit. The ZA would determine how much of a penalty would be applied; however, the ordinance states that Planning Commission is responsible for adopting factors and criteria for consideration to provide guidance to the Zoning Administrator when determining the appropriate penalty amount. While this allows the Commission to narrow the scope of what would constitute a violation, the ordinance states that *any* misrepresentation would qualify. This is a very broad application and in contrast to DBI’s ECC program which applies only to “significant violations.”

General Plan Compliance

The proposed ordinance complies with several policies in the housing element including Policy 1, which seeks to minimize no-fault and at-fault evictions; Policy 4, which seeks to help facilitate the legalization of UDUs; and Policy 21 which seeks to prevent displacement from, among other things, private investment.

Racial and Social Equity Analysis

Understanding the potential benefits, burdens, and opportunities to advance racial and social equity through the proposed amendments is a key component of the Department’s Racial and Social Equity Action Plan. This approach aligns with the Mayor’s Citywide Strategic Initiatives for equity and accountability, the 2020 Equity Resolutions adopted by the Planning and Historic Preservation Commissions, and the mandates

of the Office of Racial Equity, which require all departments to conduct such analyses. Below are some specific issues to consider:

The Planning Code amendments in the proposed ordinance aim to preserve existing housing stock, much of which is rent-controlled. It achieves this by creating two deterrents for applicants who misrepresent conditions on their plans: a substantial fee and reporting to the relevant licensing agency. Given the often-informal nature of these units, tenants are at high risk for displacement. Many of these tenants are also among the most vulnerable in our community, including immigrants with limited English proficiency or those who are financially insecure. By deterring misrepresentation, preserving these units, and reducing displacement, the Department believes this ordinance will help advance racial and social equity in the city.

However, this effort could be strengthened through programs that help homeowners finance the rehabilitation of these units. Not all property owners have the financial means to bring their units up to code. Providing financial assistance, such as low-interest or forgivable loans, would not only ease the burden on homeowners but also help improve the safety and quality of these units. This approach aligns with Implementation Program 2.4.5 from the Housing Element, which encourages the legalization of unauthorized units through financial support for property owners.

Implementation

The Department has determined that this ordinance will impact our current implementation procedures in the following ways:

1. The proposed ordinance set up a very elaborate process the ZA would use to determine if an applicant intentionally misled the Planning Department and Commission (see pages 10-12 in the proposed ordinance). The ordinance also requires Staff to draft a report for the ZA to use to make this determination. This would be a new procedure for Planning of which we have little precedent.
2. Planning would need to amend its PIM to create a marker for units that have entered into a regulatory agreement. Currently we just upload the NSR to the parcel's record. While this will change our current procedures it is something that can be easily accommodated.
3. Our enforcement Team and the ZA will be responsible for administering a new penalty fee. Staff would need to determine how severe the infraction is and how much of the penalty to apply. We currently do this for other penalty fees; however, they are for code violations, and not misrepresentation on plans or application.
4. Planning Staff will be required to conduct a much more robust investigation into whether a UDU exists on the property. This could include interviews with past and current tenants. This enhanced investigation will take up a lot more staff time. It's not clear where the money to cover this enhanced investigation will come from and processing these applications will likely take more time.

Recommendation

The Department recommends that the Commission ***adopt a recommendation for approval with modifications*** of the proposed Ordinance and adopt the attached Draft Resolution to that effect. The Department's proposed recommendations are as follows:

1. Remove the proposed reporting program from the ordinance, and instead work with DBI's to expand their Expanded Compliance and Control Program to include misrepresentation on Planning applications.
2. Remove the reference to "interviews with current and former owners, tenants, and neighbors" when conducting research into past tenancy.
3. Amend the definition of UDU to include a 10-year limit.
 - "Unauthorized Unit" shall mean one or more rooms within a building that have been used, without the benefit of a building permit, as a separate and distinct living or sleeping space independent from Residential Units on the same property within the last 10 years.
4. Amend the applicability of the proposed penalty fee to only apply to significant misrepresentations on plans and have the Planning Commission define what significant is.
5. Remove reference to the Planning Department's Property Information Map (PIM) and replace it with a more generic term.

Basis for Recommendation

The Planning Department supports the proposal because it aims to preserve existing rent-controlled units and protect tenants from displacement. Given the informal nature of many UDUs, tenants living in them are especially vulnerable to displacement. Additionally, the Department has encountered several instances where applicants have deliberately misled us about the existence of these units. There are often no consequences for such actions, leaving little to deter applicants from lying about UDUs. This ordinance seeks to address that by imposing a penalty fee and professional repercussions for non-compliant design professionals. However, the Department has concerns and proposes the following amendments to resolve them.

Recommendation 1: Remove the proposed reporting program from the ordinance, and instead work with DBI's to expand their Expanded Compliance and Control Program to include misrepresentation on Planning applications.

Rather than creating a new process in the Planning Code, the Department recommends incorporating Planning application violations into DBI's ECC Process. The ECC offers several advantages over the proposed program. First, the ECC addresses any significant violation, not just UDUs, making it more comprehensive. While identifying UDUs is important, misrepresenting existing site conditions—something Planning encounters more frequently—is also a major concern. Second, the ECC follows a three-strikes model, acknowledging the difficulty in determining whether false information was added to plans intentionally or by mistake. In contrast, the proposed program places the burden on the Zoning Administrator and, ultimately, the Planning Commission to determine if someone was dishonest. It's far easier to identify a

pattern of misrepresentation than to assess the intent behind a single action. Lastly, the ECC process is already established. Creating a new program that focuses on only one type of Planning Code violation is inefficient and misses an opportunity for broader enforcement.

To make this system truly effective, however, DBI would need to adopt the definition of a UDU. Currently, there is no definition for UDUs in the Building Code, which can create enforcement confusion. DBI might cite a property owner for having a UDU based on physical characteristics, but upon further investigation, Planning may determine the space was never used as a UDU. As part of expanding the ECC program, we recommend that DBI adopt the same UDU definition found in the Planning Code.

Recommendation 2: Remove the reference to “interviews with current and former owners, tenants, and neighbors” when conducting research into past tenancy.

The Department already employs many of the tools proposed in the ordinance to assess potential UDUs at a property. However, we generally do not conduct interviews with current or former owners, tenants, or neighbors. As a regulatory agency, our focus is on the physical characteristics of buildings and information from official records rather than informal reports. Including this language in the Code creates an expectation that Planning will actively seek out past neighbors and owners. While we welcome such information when voluntarily provided, we lack the time and resources to pursue it. Excluding this language from the Code does not prevent us from considering it in our investigations, but its inclusion would imply that the Department will make this a routine part of its operations.

Recommendation 3: Amend the definition of UDU to include a 10-year limit.

Currently, a space can be considered a UDU if it has been used as a separate living space at any point in the past. The Department recommends setting an expiration date on UDUs to aid enforcement and for practical reasons. If a space has not been used as an independent unit within 10 years and was never legally established, the unit, for all intents and purposes, does not exist. Requiring a homeowner to obtain conditional use authorization to remove a non-existent unit is unfair and a poor use of time for both the Department and the Planning Commission. The original intent of the UDU controls was to protect existing tenants from displacement. Setting a 10-year timeline strikes a balance by deterring displacement while aligning with the exemption provided in the Senior and Family Housing Special Use District, recently passed by the Board. This exemption allows projects to benefit from density exceptions and process waivers if the UDU has not been occupied within the last 10 years.

Recommendation 4: Amend the applicability of the proposed penalty fee to only apply to significant misrepresentations on plans and have the Planning Commission define what significant is.

As currently drafted, *any* misrepresentation on plans or applications can result in a fine under Section 176. Although the ordinance directs the Planning Commission to adopt factors and criteria to guide the Zoning Administrator in determining penalty amounts, Staff believes the current language is too broad. The Department proposes replacing "any" with "significant." This change would allow the Planning Commission to define what constitutes a significant misrepresentation of material information on a development application and provide more specific guidance to the Zoning Administrator.

Recommendation 5: Remove reference to the Planning Department’s Property Information Map (PIM), and replace it with a more generic term.

This is more of a clerical issue. The ordinance currently refers to “the Property Information Map or other similar, publicly accessible website.” While the publicly accessible website leaves room for flexibility, this language also occurs in several places in the ordinance. Were we to ever change the name of the website or how we present property information, this language would eventually need to be amended. To avoid this, we are recommending that references to PIM be removed and replaced with more generic language.

Commission Action

The proposed Ordinance is before the Commission so that it may adopt a recommendation of approval, disapproval, or approval with modifications.

Environmental Review

The proposed amendments are not defined as a project under CEQA Guidelines Section 15060(c) and 15378 because they do not result in a physical change in the environment.

Public Comment

As of the date of this report, the Planning Department has not received any public comment regarding the proposed Ordinance.

ATTACHMENTS:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 240803
- Exhibit C: Letters of Support/Opposition or other supporting documentation, etc.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date: July 3, 2025
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240803-2
Planning Code - Unauthorized and Rent-Controlled Dwelling Units

- ☒ California Environmental Quality Act (CEQA) Determination
(California Public Resources Code, Sections 21000 et seq.) Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
 - ☒ Ordinance / Resolution
 - ☐ Ballot Measure7/3/2025
- ☒ Amendment to the Planning Code, including the following Findings: *Joy Navarrete*
(Planning Code, Section 302(b): 90 days for Planning Commission review)
☒ General Plan ☒ Planning Code, Section 101.1 ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(Board Rule 3.23: 30 days for possible Planning Department review)
- ☐ General Plan Referral for Non-Planning Code Amendments
(Charter, Section 4.105, and Administrative Code, Section 2A.53)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
 - ☐ Landmark (Planning Code, Section 1004.3)
 - ☐ Cultural Districts (Charter, Section 4.135 & Board Rule 3.23)
 - ☐ Mills Act Contract (Government Code, Section 50280)
 - ☐ Designation for Significant/Contributory Buildings (Planning Code, Article 11)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

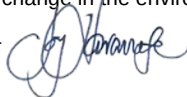
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MEMORANDUM

Date: August 7, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240803
Planning Code - Unauthorized and Rent-Controlled Dwelling Units

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*) Not defined as a project under CEQA Guidelines Section 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
☒ Ordinance / Resolution
☐ Ballot Measure 8/9/2024 
- ☒ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
☒ General Plan ☒ Planning Code, Section 101.1 ☒ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
☐ Landmark (*Planning Code, Section 1004.3*)
☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
☐ Mills Act Contract (*Government Code, Section 50280*)
☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

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San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
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MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: July 3, 2025

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Melgar on June 24, 2025:

File No. 240803-2

Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Melgar
Tate Hanna, Department of Building Inspection
Patty Lee, Department of Building Inspection

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

M E M O R A N D U M

TO: Daniel Adams, Director, Mayor's Office of Housing and Community Development
Christina Varner, Executive Director, Residential Rent Stabilization and Arbitration Board

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: July 3, 2025

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Melgar on June 24, 2025.

File No. 240803-2

Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

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

cc:

Office of Chair Melgar

Lydia Ely, Mayor's Office of Housing and Community Development

Brian Cheu, Mayor's Office of Housing and Community Development

Maria Benjamin, Mayor's Office of Housing and Community Development

Sheila Nickolopoulos, Mayor's Office of Housing and Community Development

Kyra Geithman, Mayor's Office of Housing and Community Development

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MEMORANDUM

TO: Daniel Adams, Director, Mayor's Office of Housing and Community Development
Christina Varner, Executive Director, Residential Rent Stabilization and Arbitration Board

FROM: John Carroll, Assistant Clerk, Land Use and Transportation Committee

DATE: August 7, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Supervisor Melgar on July 30, 2024.

File No. 240803

Ordinance amending the Planning Code to require the Planning Department to investigate the presence and number of Unauthorized Dwelling Units at properties subject to a Development Application; refer design professionals that fail to disclose the presence of Unauthorized Dwelling Units to any applicable licensing board or regulatory agency; post online whether a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; affirming the Planning Department's determination under the California Environmental Quality Act, and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

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

cc:

Office of Chair Melgar

Lydia Ely, Mayor's Office of Housing and Community Development

Brian Cheu, Mayor's Office of Housing and Community Development

Maria Benjamin, Mayor's Office of Housing and Community Development

Sheila Nickolopoulos, Mayor's Office of Housing and Community Development

Kyra Geithman, Mayor's Office of Housing and Community Development

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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair
Land Use and Transportation Committee

FROM: John Carroll, Assistant Clerk

DATE: July 29, 2025

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, July 29, 2025

The following file should be presented as COMMITTEE REPORT during the Board meeting on Tuesday, July 29, 2025. This ordinance was acted upon during the Land Use and Transportation Committee meeting on Monday, July 28, 2025, at 1:30 p.m., by the votes indicated.

BOS Item No. 62

File No. 240803

[Planning, Building Codes - Unauthorized and Rent-Controlled Dwelling Units]

Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Myrna Melgar – Aye
Supervisor Chyanne Chen – Aye
Supervisor Bilal Mahmood – Aye

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Brad Russi, Deputy City Attorney



MYRNA MELGAR

DATE: July 23, 2025

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, July 29, 2025

- | | |
|------------------------|--|
| File No. 250760 | Commemorative Plaques - San Francisco Little Italy Honor Walk Expansion
Sponsors: Sauter; Dorsey |
| File No. 240803 | Planning, Building Codes - Unauthorized and Rent-Controlled Dwelling Units
Sponsor: Melgar |
| File No. 250634 | Planning Code - Use Size Limits
Sponsors: Melgar; Sherrill and Sauter |
| File No. 250702 | Building Code - All-Electric Major Renovations
Sponsors: Mandelman; Mahmood, Fielder and Melgar |
| File No. 240796 | Administrative Code - Ban on Automated Rent-Setting
Sponsors: Chan; Melgar |

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, July 28, 2025.

From: [Board of Supervisors \(BOS\)](#)
To: [BOS-Supervisors](#); [BOS-Legislative Aides](#)
Cc: [Calvillo, Angela \(BOS\)](#); [Mchugh, Eileen \(BOS\)](#); [Ng, Wilson \(BOS\)](#); [Somera, Alisa \(BOS\)](#); [De Asis, Edward \(BOS\)](#); [BOS-Operations](#); [Board of Supervisors \(BOS\)](#); [Carroll, John \(BOS\)](#)
Subject: FW: File No. 240803: Unauthorized and Rent-Controlled Dwelling Units
Date: Thursday, August 28, 2025 2:17:28 PM
Attachments: [SFAA Opposition Letter File No. 240803.pdf](#)

Dear Supervisors,

Please see below and attached from the San Francisco Apartment Association regarding:

File No. 240803 - Ordinance amending the Planning Code to require applicants to disclose the presence of any Unauthorized Dwelling Unit, and require the Planning Department to investigate any Unauthorized Dwelling Unit, upon submittal of a Development Application; require the Planning Department to document when a property is subject to a regulatory agreement subjecting any units on the property to the San Francisco Residential Rent Stabilization and Arbitration Ordinance; and require the Planning Department to inspect properties prior to recommending approval of any loss of a Residential Unit or Unauthorized Dwelling Unit; amending the Building Code to expand the Department of Building Inspection's Expanded Compliance Control Program to address fraud, bribery, and failure to accurately represent the presence and number of Unauthorized Dwelling Units at properties subject to a permit application; affirming the Planning Department's determination under the California Environmental Quality Act; making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and making findings of public necessity, convenience, and welfare pursuant to Planning Code, Section 302.

Regards,

Richard Lagunte
Office of the Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
Voice (415) 554-5184 | Fax (415) 554-5163
bos@sfgov.org | www.sfbos.org

Pronouns: he, him, his

***Disclosures:** 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 provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including*

names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors' website or in other public documents that members of the public may inspect or copy.

From: Charley Goss <charley@sfaa.org>

Sent: Wednesday, August 27, 2025 4:12 PM

To: Melgar, Myrna (BOS) <Myrna.Melgar@sfgov.org>

Cc: Board of Supervisors (BOS) <board.of.supervisors@sfgov.org>; Lurie, Daniel (MYR) <daniel.lurie@sfgov.org>; Janan New <janan@sfaa.org>

Subject: File No. 240803: Unauthorized and Rent-Controlled Dwelling Units

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hi Supervisor Melgar, Members of the Board of Supervisors, and Mayor Daniel Lurie,

Attached please find a letter from the San Francisco Apartment Association objecting to proposed Ordinance No. 240803, “Unauthorized and Rent-Controlled Dwelling Units.”

Please do not hesitate to reach out if you have any questions or concerns.

Best,

Charley Goss

Government and Community Affairs Manager

San Francisco Apartment Association

415.255.2288 ext. 114



San Francisco Apartment Association

Supervisor Myrna Melgar
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Board.of.Supervisors@sfgov.org

VIA EMAIL

RE: Proposed San Francisco Ordinance No. 240803

Dear Supervisor Melgar and Honorable Members of the Board of Supervisors:

The San Francisco Apartment Association (SFAA) hereby writes to object to proposed San Francisco Ordinance No. 240803 (the “Ordinance”), which SFAA understands will be considered by the Board for final passage on September 2, 2025. As drafted, the Ordinance conflicts with the California statutory scheme for issuance of administrative warrants & the California Ellis Act, and violates protections against unreasonable searches and excessive fines under the California and U.S. Constitutions.

In pertinent part, the Ordinance proposes to amend the Planning Code to require project applicants to:

- (1) Provide extensive information about the existence or nonexistence of Unauthorized Dwelling Units(s) (UDUs) at the subject property (“**Disclosure Requirement**”);
- (2) Allows the Planning Department to “investigate” and “inspect” properties where they suspect there are undisclosed UDUs present (“**Warrantless Search**”); and
- (3) Imposes *significant* penalties—up to \$150,000.00—for suspected misrepresentation of UDU or related tenant history at the subject property (“**Penalty**”).

First, San Francisco (the “City”) cannot vest in itself the power to invoke unauthorized, warrantless property searches. When a property owner refuses to permit a local official from conducting a property search, that local official is *required* to seek an administrative warrant from the superior court allowing such inspection, which may then only be executed under the strict terms of that court-issued warrant. (Civ. Code § 1822.50 et seq.) Further, such administrative warrants are mandatory under the California and U.S. Constitutions, and no statute—or local ordinance—can excuse compliance. (U.S. Const. Amend. 4.; also see, *Camara v. Mun. Ct. of City & Cnty. of San Francisco* (1967) 387 U.S. 523, 534; CA Constitution art I § 13.)

The Ordinance’s Warrantless Search provisions permit and/ or require property inspections—even without property owners’ consent—if information provided by project applicants lead the Planning Department to believe a UDU at the subject property exists. This locally sanctioned Warrantless Search therefore not only conflicts with California’s statutory scheme addressing



San Francisco Apartment Association

administrative warrant requirements, but violates constitutional protections against unreasonable searches.

Moreover, by purportedly overriding this statutory and constitutional requirement, the City interferes with the judiciary's ability to consider and/or issue administrative warrants, thereby violating the judicial powers doctrine. (See, e.g., *Smith v. Superior Court* (2020) 52 Cal.App.5th 57; *McHugh v. Santa Monica Rent Control Bd.* (1989) 49 Cal. 3d 348, 355 [Rent Board violated judicial powers doctrine by awarding treble damages].)

Next, the Ordinance conflicts with the Ellis Act, and is therefore preempted thereby. The City's stated goal in preserving residential units, including UDUs, is ensuring adequate *rental* housing stock. (Planning Code § 317(a).) That goal is preempted following removal of a UDU from the rental market through an Ellis Act eviction; the constraints control. The Ordinance requires all project applicants—even those that have invoked their right under the Ellis Act—to disclose whether any UDU exists at the Property. If those applicants get the Disclosure Requirement or any portion of the property's tenant history wrong, they are faced with the Warrantless Search, and/or the Penalty and related enforcement despite the fact that the City cannot require an applicant to rent after withdrawal. By creating a Disclosure Requirement for withdrawn UDUs and related searches, enforcement and penalties if the withdrawing project applicant "gets it wrong," the Ordinance unlawfully enters a field of substantive eviction controls over landlords desiring to exit the residential rental market.

Finally, the Ordinance's Penalty separately violates the Excessive Fines Clauses of the California and U.S. Constitutions. (U.S. Const. Amend. 4.; *Thomas v. Cnty. of Humboldt, California* (9th Cir. 2024) 124 F.4th 1179, 1193; CA Constitution art I § 17.) The Penalty is plainly punitive and targets alleged "offenders" with zero to little legal culpability. Moreover, it should be noted that even if the Penalty purports to serve some remedial purpose, this does not save it. (*Thomas, supra*, 124 F.4th at p. 1193.)

Pursuant to the above, SFAA respectfully urges the Board to consider the aforesaid objections to the Ordinance, and vote against this patently illegal proposal.

Very truly yours,

SAN FRANCISCO APARTMENT ASSOCIATION



Janan New

cc: Mayor Daniel Lurie

From: [Meg Heisler](#)
To: [Melgar, Myrna \(BOS\)](#); [Chen, Chyanne \(BOS\)](#); [Mahmood, Bilal \(BOS\)](#); [Fieber, Jennifer \(BOS\)](#); [Sciammas, Charlie \(BOS\)](#); [Cooper, Raynell \(BOS\)](#); [Carroll, John \(BOS\)](#)
Cc: [Mandelman, Rafael \(BOS\)](#); [Ho, Calvin \(BOS\)](#)
Subject: SFADC letter re: UDU legislation (File No. 240803)
Date: Friday, July 25, 2025 1:10:17 PM
Attachments: [SFADC Support Letter - UDU Legislation \(File No. 240803\).pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Chair Melgar, Supervisor Chen and Supervisor Mahmood,

I'm writing on behalf of the San Francisco Anti-Displacement Coalition to share our support for Supervisor Melgar's UDU legislation to be heard at Monday's Land Use and Transportation Committee. Please find our letter attached.

Thank you,

Meg

--

Meg Heisler
San Francisco Anti-Displacement Coalition
1212 Market Street, Unit 200
San Francisco, CA 94102
SFADC.org



July 25, 2025

San Francisco Board of Supervisors
Land Use and Transportation Committee
1 Dr Carlton B Goodlett Place
San Francisco, CA 94102

Re: Unauthorized and Rent-Controlled Dwelling Units Verification (File No. 240803)

Dear Chair Melgar, Supervisor Chen, and Supervisor Mahmood.

The San Francisco Anti-Displacement Coalition writes to express our support for Supervisor Melgar's Unauthorized and Rent-Controlled Dwelling Units Verification legislation. We are grateful to Supervisor Melgar and her staff for tackling this complex issue and working diligently to protect thousands of affordable, rent-controlled units.

More often than not, unauthorized dwelling units (UDUs), are subject to the Rent Ordinance. However, tens of thousands of these units are unaccounted for in the City's records. There are already numerous examples of landlords collecting rent from UDU tenants for years only to evict them and sell the property to new owners who remodel or redevelop the UDUs out of existence.

Both the state—via laws such as SB 423 and SB 79—and the City—with its proposed rezoning plan—are further incentivizing developers to demolish existing residential housing and omit or obfuscate the presence of UDUs from their development applications. In theory, SB 330 requires that demolished rent-controlled units be replaced. But what if we never knew they existed in the first place? It is far too easy to skirt the rules. The Planning Department and advocates need more tools to hold bad actors accountable and protect existing and future tenants. This ordinance is an important step in that direction.

It is not an undue burden—in fact it should be a minimum expectation—for development applications to accurately reflect onsite conditions. Otherwise, we risk losing an essential part of our housing stock and denying already vulnerable tenants their rights under state and local law simply because they needed an affordable place to live. We urge your support for this legislation.

Sincerely,
Meg Heisler
Policy Lead, San Francisco Anti-Displacement Coalition

cc: Board President Rafael Mandelman

From: [T.Flandrich](#)
To: [Melgar, Myrna \(BOS\)](#); [Chen, Chyanne \(BOS\)](#); [Mahmood, Bilal \(BOS\)](#)
Cc: [MelgarStaff \(BOS\)](#); [ChenStaff](#); bilal.mahmoodstaff@sfgov.org; [Carroll, John \(BOS\)](#)
Subject: 2. 240803 [Planning, Building Codes - Unauthorized and Rent-Controlled Dwelling Units] SUPPORT
Date: Friday, July 25, 2025 12:32:35 PM

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25 July 2025

Chair Melgar, Supervisors Chen & Mahmood,

Thank you Supervisor Melgar for bringing this desperately needed measure forward to preserve existing rent controlled housing and protect tenant displacement.

You have defined the problem, called out the misleading tactics used by developers, their agents and listed means for solutions with teeth for actual enforcement.

I urge all members of this committee to pass this with a positive recommendation and forward it immediately to the full board.

Thank you for representing our 2/3 population of tenants, our neighborhoods, our communities!

Sincerely,

Theresa Flandrich

North Beach Tenants Committee

From: [Carroll, John \(BOS\)](#)
To: [Thomas Schuttish](#)
Cc: [Melgar, Myrna \(BOS\)](#); [Fieber, Jennifer \(BOS\)](#); [Low, Jen \(BOS\)](#); [Chen, Chyanne \(BOS\)](#); [Sciammas, Charlie \(BOS\)](#); [Mahmood, Bilal \(BOS\)](#); [Cooper, Raynell \(BOS\)](#)
Subject: FW: File No. 240803 At LUT on July 28th, 2025
Date: Thursday, July 24, 2025 9:57:00 AM
Attachments: [271 Fair Oaks Street copy.pdf](#)
[Screen Shot 2025-07-23 at 5.12.34 PM.png](#)
[image001.png](#)

Thank you for your comment letter.

I am forwarding your comments to the members of the Land Use and Transportation committee, and I will include your comments in the file for this ordinance matter.

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below:

-

[Board of Supervisors File No. 240803](#)

John Carroll
Assistant Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

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From: Thomas Schuttish <schuttishtr@sbcglobal.net>
Sent: Wednesday, July 23, 2025 5:18 PM
To: Carroll, John (BOS) <john.carroll@sfgov.org>; Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>; Fieber, Jennifer (BOS) <jennifer.fieber@sfgov.org>
Subject: File No. 240803 At LUT on July 28th

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Mr. Carroll, Chair Melgar and Ms. Fieber:

This is great legislation. The new [Section 317 \(j\)](#) is important to make sure that existing rent controlled housing is not lost.

Here are some anecdotes:

In my neighborhood of Noe Valley there was a particularly notorious case at [79 28th Street](#) when the first developer, not only did he not "fess-up" to the UDU that was on the property, but also Ellis'ed the long time tenants. The eviction of the tenants brought the UDU to light at the Planning Commission, but that was only because a neighbor filed a Request for Discretionary Review. The project is now undergoing a major remodel, but a second unit was added which hopefully will be available for separate occupancy by a tenant.

There was another property that illegally exceeded the Section 317 Demo Calcs at 403 28th Street, and that was marketed and sold with the ads noting that a UDU existed at the property. Yet it was not disclosed by the project sponsor in their Permit Application to the City. The UDU was a beautiful unit, located off a garden with very good egress and exposure. It was only due to a complaint because of the illegal Demolition that a second unit was added by the Commission at the CUA hearing for this project in the RH-2. However two existing, sound, livable, relatively affordable units subject to rent control were lost.

Here is the link to the web ad from the time of sale which mentioned the “in-law”. As can be seen in the web ad there are two kitchens and the units are completely separate.

https://www.zillow.com/homedetails/403-28th-St-San-Francisco-CA-94131/15182942_zpid/

A decade ago at 271 Fair Oaks Street, another extreme Alteration that was very close to the Tantamount To Demolition threshold and should have been reviewed as a Demolition, caused the loss of a UDU and the eviction of the tenant. See attached pdf with some of the history.

This legislation will help uncover properties that are for sale, then later seeking Alteration permits, that may either have evicted tenants from the UDU or not acknowledged the existence of this very important source of housing...housing that is rent controlled...and then just obliterated during the work.

I am aware of one now going through a major remodel with a two-floor vertical expansion that sold prior to the Pandemic.

This property is listed on the SFPIM as a single family home.

See the attached screenshot below of a web ad for this project which details the “in-law”.

The property was sold due to the death of the original owner. *A neighbor told me that a tenant lived on the garage level in a separate unit that had a kitchen for many years.* But the tenant left when the new owner took possession. Yet, there was no acknowledgment of the UDU by the new owner in the several permit applications for this very major remodel. In fact the first set of permits for the ground floor include replacing the kitchen.

As found on the DBI Tracking it reads:

NEW LIVING SPACE AT GR FL E ENVELOPE, 2 BEDROOMS, 2 BATHS, 1 OFFICE, LAUNDRY, MECH 2ND FL. **REPLACE KITCHEN, REMOVE FULL BATH, ADD 1/2 BATH.** REPLACE 2 WINDOWS AT STREET FACADE, INCREASE WIDTH OF GARAGE DOOR DUE TO 10' NEW DOORS AND WINDOWS AT REAR YARD. REMOVE PORTION OF E WOOD DECK AT REAR YARD

Cost: \$350,000.00

Occupancy Code: R-3

Building Use :27 - 1 FAMILY DWELLING

There are stories like this all around the City, in every neighborhood.

This legislation will help preserve this important source of housing as we deal with the affordable housing crisis and every unit of housing is thought of as something precious.

Sincerely,
Georgia Schuttish

**\$1,346,000 -
\$1,644,000**
Reference Base Price*

26.37%
Since Jul 1, 2019

CA-San Francisco
Primary Model

Sold Jun 17, 2019

\$1,910,000



Buyer



Seller

\$1,872,000 by Hsbc Bank Usa

Mortgage Due Jun 01, 2051

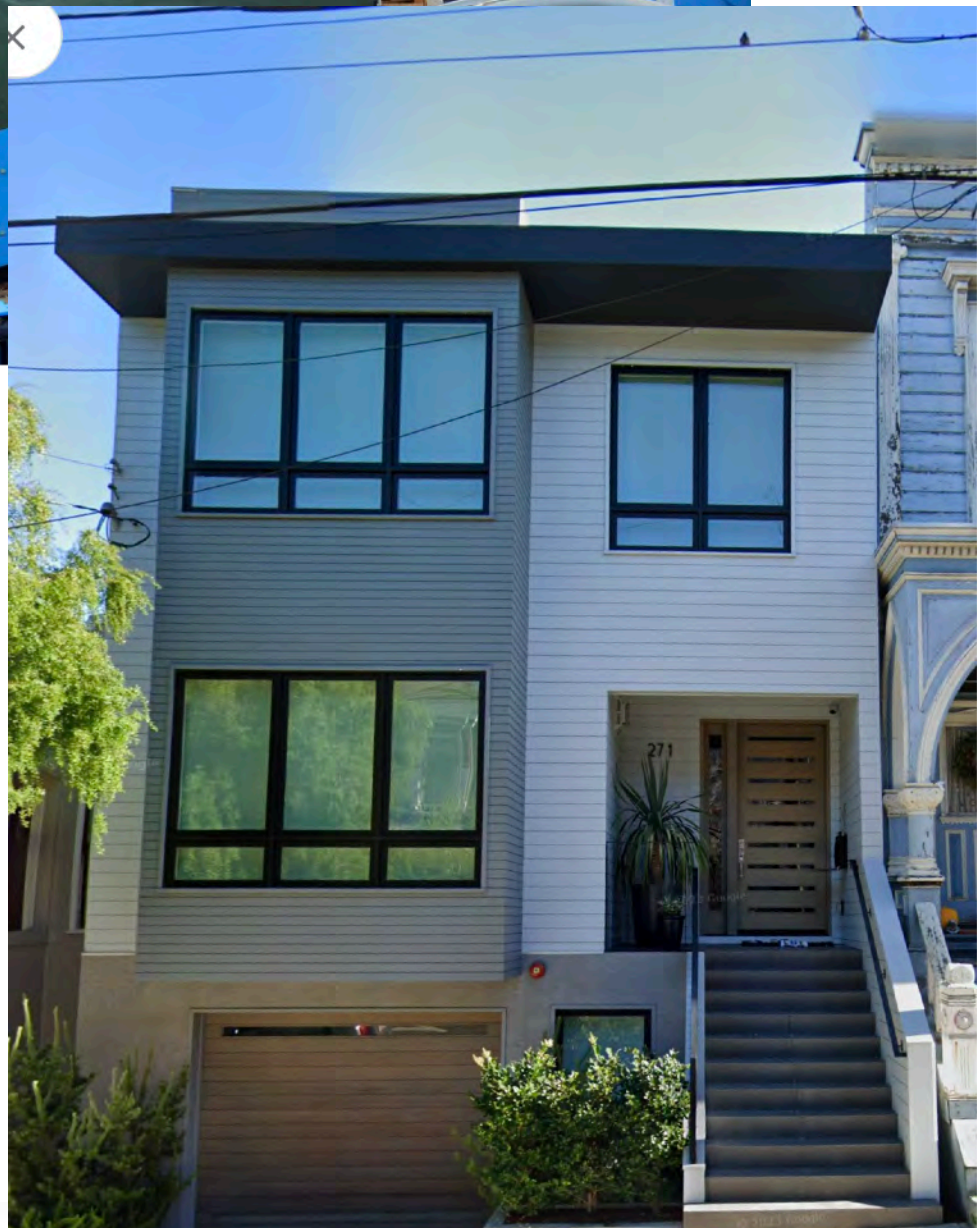
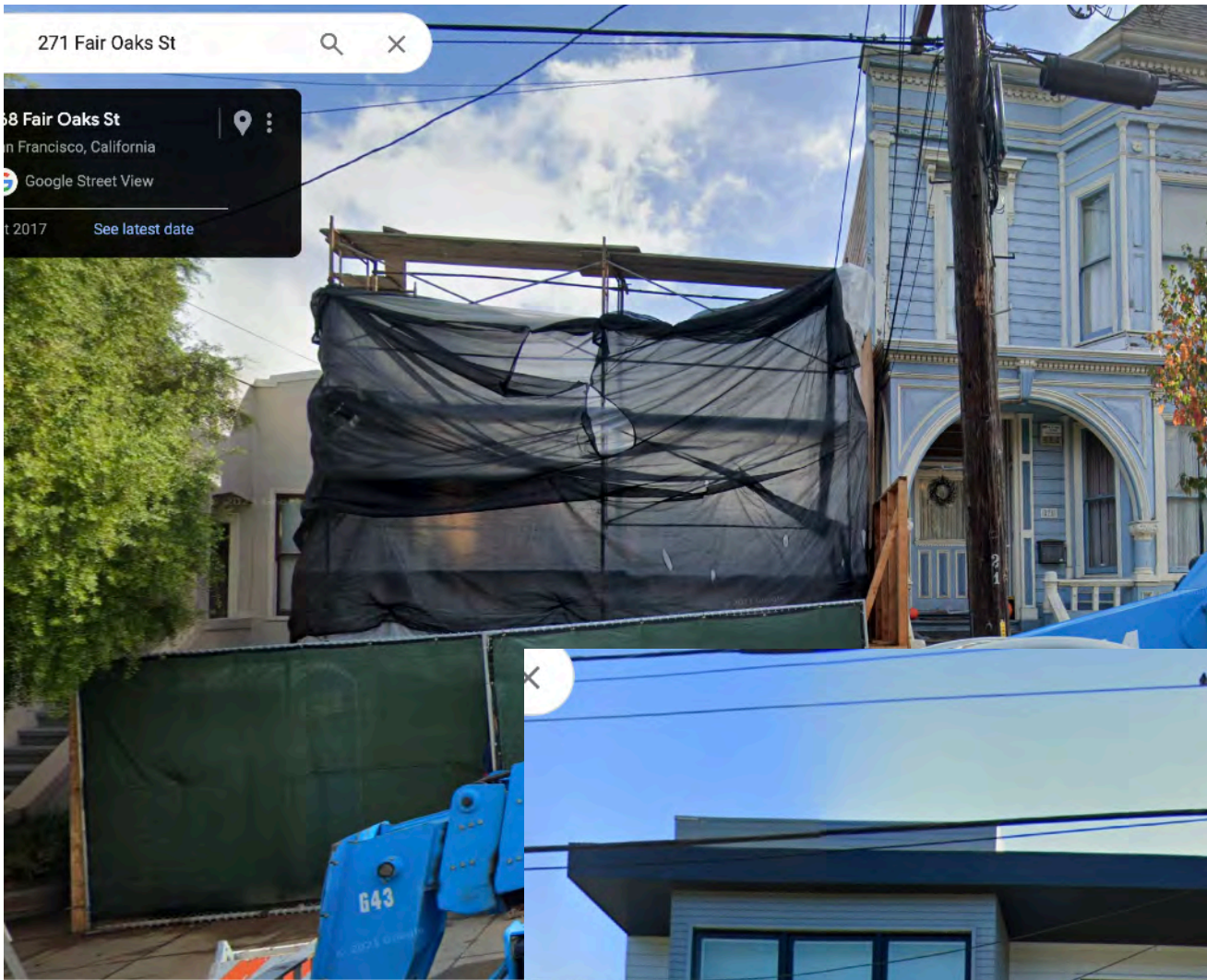
About This Property

Exceptional development/expansion opportunity on prime Noe Valley Block. Settled on a desirable level lot consisting of 2,850 square feet, 25 feet wide x 114 feet deep with a sunny South-facing yard. The home offers potential for vertical and horizontal addition with larger neighboring homes and currently features three bedrooms/one bath over a garage with an in-law suite down. Amazing location in a flat Noe area with a 94 Walk Score, steps to Church Street with cafes and the J Church line. Ideal for developers or buyers who want to build their dream home!

Original House at 271 Fair Oaks Street prior to Alteration. Note door with address of 273 and Welcome Sign as well as mail slot.

This was an occupied unit as noted by neighbor in Request for Discretionary Review that was withdrawn and Jurisdiction Request from occupant of unit at Board of Appeals. See pages 3 and 4 for those documents. Page 2 shows 271 Fair Oaks during the Alteration and upon completion in 2020. Page 5 shows Price History





FROM 2016 DR FOR 271 FAIROAKS.

in the yard and deprives us of the enjoyment of that feature. The downstairs neighbors would also experience a decrease in the natural light and warmth. Solution: Remove uppermost (4th) story from plans.

5. The additional floor is inconsistent with the neighborhood wherein no other single family home features a 4th story. The additional of this unnecessary floor also blocks city views from our neighbors across the road. The additional level is an over-improvement and could easily be removed from the plans without difficulty. Solution: Remove uppermost story from plans.
6. The design of the proposed single family home is not in keeping with the look of the adjacent and nearby properties. The design of the proposed home is widely disliked by a vast majority of the neighbors. Even those neighbors who like modern design have told the owner that they do not like the design of this property. The owner has not taken any suggestions made by the neighborhood in regard to design or any aspect of this building. Solution: Alter façade to more accurately fit into neighborhood designs.
7. The design of the property appears to allow for the possibility of an illegal in-law unit. This is especially egregious as a long-term tenant was forced out of the legal second unit in order for the owner to convert it into one unit. The plans for the new home show a "Storage/Utility Room". This does not appear to be merely a utility as evidenced by the window, street access doorway, and a bathroom. There is an area which is partially walled off, however, a door can easily be installed thereby giving access to the entire ground floor level. If the owner is trying to get around the city's tenant's right codes in order to serve his own needs, then this is a problem for the city government, law enforcement, and the people who live on this street. Solution: Deny any rights or conversion and monitor plans. Make property size more in keeping with standard square footage.
8. The proposed single family home features a one-car garage. Because parking is scarce, add a side-by-side parking garage into plans. This is preferable over tandem parking due to the inherent complications for moving one car out to get to another. Also, tandem parking encourages homeowners to park only one car in the garage and the other on the street. The net result is that it is more convenient to park on the street, taking up the very scarce parking. Solution: Remove utility room and add additional parking space. The property and street could benefit from side-by-side parking. This will reduce the impact of parking in the neighborhood.
9. The owner has no intention of living on the property. It is ultimately going to be flipped and resold. As such, the owner has little interest in working with the people who live on this street. The desires of the inhabitants of Fair Oaks street should be given ample weight in buildings that can alter the look or feel of the street. To do otherwise gives the speculators an undeserved

2017/10/21

1 TOBENER LAW CENTER
2 JOSEPH TOBENER, SBN. 203419
3 MONIQUE FARRIS, SBN. 259678
4 21 Masonic Avenue, Suite A
5 San Francisco, California 94118
6 Telephone: (415) 504-2165
7 Facsimile: (415) 418-3492

BOARD OF APPEALS

AUG 13 2014

APPEAL - JR

FILE

Re: BPA No. 2014-
08-18-4044

Attorneys for Petitioner JOHN ROMAN

CITY & COUNTY OF SAN FRANCISCO

BOARD OF APPEALS

JURISDICTION REQUEST

Subject Property: 271 Fair Oaks Street Permit Issued: August 18, 2014

I. INTRODUCTION

John Roman has rented the lower-level in-law unit located at 271 Fair Oaks Street for fifteen years. (See Exhibit A, Declaration of John Roman.) John's home was recently sold last. (See Exhibit B, Declaration of Monique Farris.) Prior to the sale, John was offered \$75,000 to move. (See Exhibit A.) John declined the offer. (See Exhibit A.) Two weeks later, the owner again tried to convince John to move, this time offering him \$100,000. (See Exhibit A.) Again, John rejected the offer. (See Exhibit A.)

On August 12, 2014, John received a notice from the owner's agent stating that the owner intended to apply for a permit to demolish John's home based on a claim that the in-law unit is an illegal unit. (See Exhibit A.) John was shocked, as the in-law unit is in fact a legal unit and has been used as a dwelling for at least sixty-five years. (See Exhibit A)

On August 25, 2014, John hired an attorney to represent John in challenging any attempt by John's landlord to demolish John's home. (See Exhibit A.) That same day, August 25, 2014, John's attorney was told by the San Francisco Department of Building Inspection that no

4 bd 5 ba 3,741 sqft

271 Fair Oaks St, San Francisco, CA 94110

Sold

: \$5,750,000 Sold on 01/19/24 Zestimate®: **\$5,606,900**

Est. refi payment: \$37,492/mo [Refinance your loan](#)

Home value Owner tools Home details Neighborhood details

1/19/2024	Sold	\$5,750,000 -4.1% \$1,537/sqft
Source: SFAR #423755862 Report		
11/3/2023	Pending sale	\$5,995,000 \$1,603/sqft
Source: SFAR #423755862 Report		
9/5/2023	Listed for sale	\$5,995,000 -9.5% \$1,603/sqft
Source: SFAR #423755862 Report		
4/19/2021	Sold	\$6,625,000 +5.2% \$1,771/sqft
Source: Public Record Report		
3/20/2020	Sold	\$6,300,000 +281.8% \$1,684/sqft
Source: SFAR #497166 Report		
7/23/2014	Sold	\$1,650,000 +1988.6% \$441/sqft

There was a sale two weeks earlier in July 2014 based on **Redfin** Sales History Info as shown below. These sales aligns with the SFPIM for the Assessor's Info further illustrating the volatile sales history.

Jul 10, 2014
Date

Sold (Public Records)
Public Records

\$1,280,000 (12.1%/yr)
Price

271 FAIROAKS STREET PLANS DATED 7/9/16

ELEVATION	EXISTING	DENOLISH	PERCENT
NORTH	1,427 ^{SQ} FT	233 ^{SQ} FT	
SOUTH	1,399 ^{SQ} FT	319 ^{SQ} FT	
EAST	727 ^{SQ} FT	727 ^{SQ} FT	
WEST	691 ^{SQ} FT	691 ^{SQ} FT	
TOTAL	4,194 ^{SQ} FT	1,960 ^{SQ} FT	47 %

52 % DEMOLITION VERTICAL ELEMENTS

FLOOR	EXISTING	DENOLISH	
1ST FLOOR	1,136 ^{SQ} FT	0 ^{SQ} FT	
ROOF	1,136 ^{SQ} FT	1,136 ^{SQ} FT	
TOTAL	2,272 ^{SQ} FT	1,136 ^{SQ} FT	50 %

50 % DEMOLITION HORIZONTAL
ELEMENTS

This is EXACTLY how it was written on the plans as viewed in DBI Records. Based on the numbers for the Vertical Elements square footage of "Existing" versus "Demolish" the 47% number is the "correct" number not the 52% as written on the Plans.

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

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

- ☐ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No.
- ☐ 9. Reactivate File No.
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☐ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes ☐ No

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

Sponsor(s):

Subject:

Long Title or text listed:

Signature of Sponsoring Supervisor: