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April 2, 2019

President Norman Yee
c/o Angela Calvillo, Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102
Email: angela.calvillo@sfgov.org

Via Hand Delivery and Email

Re: Ordinances Regarding Temporary Homeless Shelter Provisions and Streamlining Siting of Shelters (File Nos. 190045 and 190047.)

Dear President Yee and Honorable Members of the Board of Supervisors:

Our office represents Safe Embarcadero for All, a community organization comprised of local residents that has serious concerns regarding two Ordinances under consideration by the Board of Supervisors:

- Ordinance 190045, amending the Building Code to adopt standards for constructing homeless shelters, and to create an alternative approval procedure for homeless shelters, during a shelter crisis; and
- Ordinance 190047, amending the Administrative Code and Planning Code to streamline contracting for homeless shelters, and siting of homeless shelters; (collectively, the “Ordinances”).

As outlined in our client’s letter dated March 19, 2019, no environmental review of the Ordinances has been carried out despite the likely significant environmental impacts that will result.

Moreover, Ordinance 190045 purports to apply the new streamlining process to any shelter “located on City owned or leased land,” even if other agency approvals are required for the project. In particular, the proposed addition of § 106A.2(23) to the Building Code refers to review by the “Chief Harbor Engineer of the Port of San Francisco (if applicable)” and appears

to contemplate that all that would be required from the Port is a written “confirmation of compliance.”

However, the Port has its own Building Code, with its own distinct permitting process. The 2016 Port of San Francisco Building Code (“Port Code”) requires a permit to be issued by the Chief Harbor Engineer for any construction on Port land. (Port Code § 106.A.1.) The Port Code sets out its own specific building standards, and has its own separate appeals process. (Port Code § 105A.) Amendments to the Port Code can only be enacted by the Port Commission.

The Board of Supervisors has no jurisdiction over the Port Code, and cannot circumvent it by amending the San Francisco Building Code. Accordingly, any streamlined permit approval under the auspices of the San Francisco Building Code would be void as applied to projects on Port land, and preempted by state law.

We request that the Ordinance 190045 be amended to exclude its application to projects on Port land, and that a complete environmental analysis be completed prior to the passage of Ordinances 190045 and 190047.

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Sarah M. K. Hoffman