

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

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TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: July 18, 2019 Government Audit and Oversight Committee Meeting

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<p>Item 1 File 19-0214 <i>(Re-referred to Committee at the April 30, 2019 Board of Supervisors meeting)</i></p>	<p>Department: Mayor's Office</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend San Francisco’s Building Code to waive specified fees for 100 percent affordable housing projects and accessory dwelling unit (ADU) projects for an approximately one-year pilot program. • The specific fees to be waived are: building inspection fees (excluding electrical and plumbing fees); plan review fees; records retention fees; and site surcharge fees. All fees included in the proposed waiver are assessed by the Department of Building Inspection. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • DBI assesses building inspection fees, plan review fees, records retention fees, and site surcharge fees to recover the costs to the Department of monitoring permitted projects. Waiving these fees would prevent the Department from recovering those costs. • An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • According to DBI, for a typical ADU project the average dollar value of these fees is \$3,200. For affordable housing projects, fees average \$150,000 for new construction and \$15,000 for “small site” small/alteration projects. • Using these numbers, we estimate that the proposed ordinance will cause a reduction in DBI permit fee revenue of approximately \$2 million. • The reduction in permit fee revenue will likely be spread over several fiscal years due to the timing of the pilot program and depending upon the length of each project’s permit application process. • If the number of ADU and affordable housing projects increases, either as a result of the fee waiver program or other external factors, the fee revenue loss will be higher. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • The use of a pilot program would allow the Board of Supervisors to assess the impacts of the pilot program, including any increases in ADU and affordable housing construction, and the actual revenue reduction at DBI. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy decision for the Board of Supervisors. 	

MANDATE STATEMENT

Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

BACKGROUND

An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot. ADUs may be constructed within the existing building, as an extension to the existing building, or as a separate structure, and are typically developed using underutilized spaces within lots, such as garages, storage areas, rear yards, or attics. ADUs are independent living units with their own kitchens, bathrooms, and living areas. Ordinance 162-16 (File 16-0657), adopted by the Board of Supervisors on July 26, 2016, amended San Francisco's Planning Code to allow the construction of ADUs on all lots in the City that allow for residential use.

City departments such as the Department of Building Inspection (DBI), the Planning Department, and the Fire Department, among others, assess fees on construction projects in San Francisco, including ADU projects and affordable housing projects. Types of fees assessed include 1) permit fees, which are fees imposed by a Department to compensate for the cost of reviewing applications, issuing permits, and inspecting permitted work; 2) service fees or charges, such as water and wastewater capacity charges, record retention fees, and other fees or charges; and 3) development impact fees, which are fees imposed on development projects to mitigate the impacts on public services, infrastructure, and facilities. These fees are paid by the property owner or developer on top of the cost of the construction project itself.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend San Francisco's Building Code to waive specified fees for 100 percent affordable housing projects and ADU projects for an approximately one-year pilot program. The specific fees to be waived are: building inspection fees (excluding electrical and plumbing fees); plan review fees; records retention fees; and site surcharge fees. All fees included in the proposed waiver are assessed by DBI.

The proposed ordinance defines "100 percent affordable housing" as a multi-family residential building, including any ancillary commercial space, where either:

- 100 percent of the residential units, excluding a manager's unit, are subject to a recorded regulatory restriction to ensure affordability based on income; or
- 100 percent of the residential units, excluding a manager's unit, are funded by a nonprofit charitable organization and will provide permanent housing for homeless or formerly homeless people.

The proposed ordinance would become effective 30 days after enactment and would be retroactive to February 26, 2019, when the proposed ordinance was introduced. The fee waiver provisions would apply for one year from the effective date of the ordinance. The proposed

ordinance would also require DBI to submit a report to the Board of Supervisors three months before the expiration of the fee waiver program. The report would include the number of projects that have taken advantage of the fee waiver, the type and location of the projects, the total amount of fees waived or projected to be waived during the pilot program, and any administrative impacts associated with the fee waiver program.

According to the Planning Department, the proposed ordinance is not defined as a project under the California Environmental Quality Act (CEQA) because it would not result in a direct or indirect physical change in the environment.

FISCAL IMPACT

DBI assesses building inspection fees, plan review fees, records retention fees, and site surcharge fees to recover the costs to the Department of monitoring permitted projects. Waiving these fees would prevent the Department from recovering those costs.

According to DBI, for a typical ADU project the average dollar value of these fees is \$3,200. For affordable housing projects, fees average \$150,000 for new construction and \$15,000 for “small site” small/alteration projects. Using these numbers, Exhibit 1 below summarizes our estimate of the fiscal impact of the proposed one-year fee waiver program. In total, the proposed ordinance will cause a reduction in DBI permit fee revenue of approximately \$2 million. The reduction in permit fee revenue will likely be spread over several fiscal years due to the timing of the pilot program and depending upon the length of each project’s permit application process.

The estimates for each project type are discussed in more detail below. If the number of ADU and affordable housing projects increases, either as a result of the fee waiver program or other external factors, the fee revenue loss will be higher.

Exhibit 1: Estimation of fiscal impact of one-year fee waiver program

	Average fee per project*	Projects during one-year pilot	Total cost
Accessory dwelling unit	\$3,200	200	\$640,000
Affordable housing new construction	\$150,000	6	900,000
HOPE SF-Sunnydale, Block 6	\$150,000+	1	150,000+
Affordable housing alteration/small construction	\$15,000	18	270,000
Total cost – all projects			\$1,960,000+

*Only fees specified in the proposed ordinance

We estimate that approximately 200 ADU projects would be subject to a one-year fee waiver program, based on the 92 ADU project permits issued for the first six months of FY 2018-19 (if total permits issued in FY 2018-19 are 184, or two times the permits issued in the first six months of the fiscal year).

The Mayor’s Office of Housing and Community Development (MOHCD) projects that there will be six 100 percent affordable housing projects during FY 2019-20 that would be subject to a one-year fee waiver program. MOHCD also believes that the HOPE SF-Sunnydale, Block 6

project will likely be subject to this fee waiver, and that the fees waived for this project will likely be higher than DBI's average estimate of \$150,000 in fees due to its size.

MOHCD has estimated that 17 to 18 "small site" projects would be subject to this fee waiver during FY 2019-20: 15 known small sites that are expected to be assessed DBI fees in FY 2019-20, as well as 2-3 potential new projects that MOHCD staff believe may be created in FY 2019-20 due to new Educational Revenue Augmentation Fund (ERAF) funding.

POLICY CONSIDERATION

The use of a pilot program and the Department of Building Inspection's report to the Board of Supervisors would allow the Board to assess the impacts of the pilot program, including any increases in ADU and affordable housing construction, and the actual revenue reduction at DBI.

RECOMMENDATION

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

<p>Item 4 File 19-0547 <i>(Continued from July 11, 2019)</i></p>	<p>Department: Human Rights Commission (HRC)</p>
<p>EXECUTIVE SUMMARY</p>	
<p>Legislative Objectives</p> <p>The proposed ordinance amends the Administrative Code to create an Office of Racial Equity as a division of the Human Rights Commission, with authority to (1)(a) create a citywide Racial Equity Framework, (b) assist City departments with the development of Racial Equity Action Plans, (c) analyze and report on the impact of ordinances on racial equity, and (d) carry out various other policy and reporting functions regarding racial equity; (2) require City departments to create Racial Equity Action Plans and to provide annual updates on such Plans; (3) require City departments to designate employees as racial equity leaders; and (4) require the Department of Human Resources to produce an annual report concerning racial equity in the City workforce.</p> <p>Key Points</p> <ul style="list-style-type: none"> • The City currently does not have an office of racial equity. • The Human Rights Commission leads a number of initiatives, in partnership with other City departments, to address disparate outcomes for certain racial and other groups that traditionally have not been treated equitably by institutions such as government. • Under the proposed ordinance, the new Office of Racial Equity shall be staffed by a Director and no few than four other full time employees. <p>Fiscal Impact</p> <ul style="list-style-type: none"> • The Human Rights Commission intends to add three new positions in FY 2019-20 and an additional new position in FY 2020-21 to staff the Office of Racial Equity for initial startup. The new positions are estimated to cost \$355,783 in FY 2019-20 and \$618,295 in FY 2020-21. • Funding for the three new positions in FY 2019-20 and one new position in FY 2020-21 in the new Office of Racial Equity, totaling four positions, is included in the FY 2019-20 and FY 2020-21 budget pending before the Board of Supervisors. • The proposed ordinance requires five total positions in the Office of Racial Equity. The Human Rights Commission anticipates that one more position will be added in two years, or FY 2021-22. Funding for one additional position would need to be included in the FY 2021-22 budget, subject to Board of Supervisors approval. <p>Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

City Charter Section 9.105 states that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

BACKGROUND

The City has a number of initiatives underway to address disparate outcomes for certain racial and other groups that traditionally have not been treated equitably by institutions such as government.

The Human Rights Commission leads implementation of the Government Alliance on Race and Equity (GARE) framework in San Francisco, a model and set of tools developed by GARE, a national organization, to assist governments in implementing changes in their policies and procedures to address systemic biases against certain racial groups. Over 20 City departments currently participate in San Francisco's GARE activities, and representatives of these departments meet twice a month. During the first year of participation, department representatives received training in implicit bias. Representatives then worked within their own departments to develop an Equity Action Plan.

The Human Rights Commission has a Policy and Social Justice Division that leads the GARE model implementation, and provides staff trainings on the topics of institutional racism and racial and socioeconomic inequities. The Human Rights Commission collaborates with groups supporting communities of color to address the impacts of racial disparities and develop strategies to decrease discrimination and bias and close gaps (academic, health, income, wealth, etc.) through the My Brother's and Sister's Keeper Initiative, and hosts several Equity Ambassador workshops and activities with middle and high school students. The Human Rights Commission also investigates complaints about discrimination filed with the office.

In partnership with the Office of Economic and Workforce Development, the Human Rights Commission leads a workforce alignment committee to address racial disparities in the City's workforce, and launched an equity fellowship program focused on addressing the challenges of African Americans in the Fillmore District.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance amends the Administrative Code to create an Office of Racial Equity as a division of the Human Rights Commission, with authority to (1)(a) create a citywide Racial Equity Framework, (b) assist City departments with the development of Racial Equity Action Plans, (c) analyze and report on the impact of ordinances on racial equity, and (d) carry out various other policy and reporting functions regarding racial equity; (2) require City departments to create Racial Equity Action Plans and to provide annual updates on such Plans; (3) require City departments to designate employees as racial equity leaders; and (4) require

the Department of Human Resources to produce an annual report concerning racial equity in the City workforce.

Under the proposed ordinance, the office shall be staffed by a Director and no few than four other full time employees.

FISCAL IMPACT

According to Ms. Sheryl Davis, Executive Director of the Human Rights Commission, the department intends to add three new positions in FY 2019-20 to staff the Office of Racial Equity for initial startup, with one position anticipated to be added over each of the next two years, in FY 2020-21 and FY 2021-22, in the Administrative Analyst series. Ms. Davis anticipates that the three new positions in FY 2019-20 would be filled in or after October 2019 and the new position in FY 2020-21 would be filled in October 2020. Based on the anticipated hiring date, the new positions are estimated to cost \$355,783 in FY 2019-20 and \$618,295 in FY 2020-21, as shown in Table 1 below.

Table 1: Office of Racial Equity Salary and Benefits

Position	FY 2019-20		FY 2020-21	
	FTE	Amount	FTE	Amount
0922 Manager I	0.77	\$151,798	1.00	\$206,027
1408 Principal Clerk	0.77	96,891	1.00	131,476
9772 Community Development Specialist	0.77	107,094	1.00	145,321
1823 Senior Administrative Analyst	0.00	0	0.77	135,471
Total	2.31	\$355,783	3.77	\$618,295

According to Ms. Davis, funding for the three new positions in FY 2019-20 and one new position in FY 2020-21 in the new Office of Racial Equity, totaling four positions, is included in the FY 2019-20 and FY 2020-21 budget pending before the Board of Supervisors.¹

As noted above, the proposed ordinance requires five total positions in the Office of Racial Equity, subject to the budgetary and fiscal provisions of the Charter. If the Board of Supervisors were to approve the proposed resolution, funding for one additional position would need to be included in the FY 2021-22 budget, subject to Board of Supervisors approval.

RECOMMENDATION

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

¹ Funding for the 0922 Manager I and 9772 Community Development Specialist positions were included in the Mayor’s proposed budget for the Human Rights Commission. The Budget & Finance Committee added funding for the 1408 Principal Clerk position to the Human Rights Commission budget through the add-back process.