

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: June 4, 2020 Government Audit and Oversight Committee Meeting

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<p>Item 1 File 20-0113 <i>(Continued from May 7, 2020)</i></p>	<p>Department: Planning Department Department of Building Inspection (DBI)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend the Planning and Building Codes to reauthorize the waiver of fees related to granting legal status to existing dwelling units constructed without required permits and extend the waiver through December 31, 2024. The proposed ordinance requires annual reports on the fee waiver program; and makes findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • An accessory dwelling unit (ADU) is a residential unit that is added to an existing housing lot. In an effort to encourage owners to maintain and legalize potential sources of affordable housing in San Francisco, the Board of Supervisors approved an ordinance in July 2015 amending the Planning and Building Codes to waive fees for the review of a permit or the portion of a permit related to granting legal status to existing dwelling units constructed without required permits until January 1, 2020. • Under the proposed ordinance, only fees related directly to legalization of existing ADUs would be waived. The Planning Department and Department of Building Inspection charge certain administrative fees for review of building permit applications, including permit applications that may be submitted to legalize an existing dwelling unit that had been constructed or added without required City permits. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • Approximately \$662,823 in Department of Building Inspection permit fees and \$938,712 in Planning Department fees have been waived since the passage of the original legislation in July 2015, totaling \$1,601,535 over approximately five years. The Department of Building Inspection estimates that approximately \$800,000 in permit fees and the Planning Department estimates approximately \$1,000,000 in permit fees will be waived during the five-year extension (January 1, 2020 through December 31, 2024). <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • The existing waiver of building and planning permit fees to legalize existing ADUs has resulted in 169 units being legalized. Although the existing data cannot tell if property owners would have applied to legalize existing ADUs in the absence of the fee waiver, the impact of the fee waiver to the Building Inspection and Planning Department permit revenues over five years is not large. <p style="text-align: center;">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 all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

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.

In California Government Code Section 65852.150, the Legislature declared that ADUs are a valuable form of housing in California because they "provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods" and that "homeowners who create accessory dwelling units benefit from added income, and an increased sense of security." In an effort to encourage owners to maintain and legalize potential sources of affordable housing in San Francisco, the Board of Supervisors approved an ordinance in July 2015 amending the Planning and Building Codes to waive fees for the review of a permit or the portion of a permit related to granting legal status to existing dwelling units constructed without required permits until January 1, 2020 (File 15-0571).

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Planning and Building Codes to reauthorize the waiver of fees related to granting legal status to existing dwelling units constructed without required permits and extending the waiver through December 31, 2024, including:

- (a) requiring annual reports on the fee waiver program; and
- (b) making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1, and findings of public necessity, convenience, and welfare under Planning Code, Section 302.

Under the proposed ordinance, only fees related directly to legalization of existing ADUs would be waived. The Planning Department and Department of Building Inspection charge certain administrative fees for review of building permit applications, including permit applications that may be submitted to legalize an existing dwelling unit that had been constructed or added without required City permits. This is currently defined in Planning Code Section 317(b)(13) as "unauthorized units."

If the Director of Building Inspection and the Planning Director determine that the permit application fee waiver is no longer feasible, they could request that the Board of Supervisors consider an ordinance terminating this fee waiver prior to January 1, 2025. A report from the Department of Building Inspection to the Board of Supervisors, Building Inspection Commission,

and Planning Commission is required starting March 2021 and annually thereafter. Under the proposed ordinance, the report should include, but is not limited to, the following information:

- (a) the total amount of fees waived during the prior calendar year and the amount of fees projected to be waived during the current calendar year, including those of the Planning Department, and any administrative costs for the prior calendar year and the current calendar year associated with the Departments' processing of such waivers;
- (b) the number of projects that took advantage of the fee waiver program during the prior calendar year, and the districts or geographical areas of San Francisco in which the legalized units are located;
- (c) the number of units in single-family homes and the number in multi-family buildings, legalized during the prior calendar year;
- (d) the length of time each fee waiver applicant who submitted the application during the prior calendar year has owned the subject property, and if the applicant is an individual or a business;
- (e) for each fee waiver applicant who submitted the application during the prior calendar year, if the applicant owns, in whole or in part, other residential property in the City as an individual or part of a partnership or corporation; and
- (f) for each fee waiver applicant who submitted the application during the prior calendar year, if the applicant has, or had within the past 10 years, building permit applications for other residential properties in the City.

According to Ms. Taras Madison, Chief Financial Officer at the Department of Building Inspection, 705 building permits applications were submitted by property owners under the fee waiver program. Of those 705 building permits, 169 were completed including 133 units in single-family homes and 36 units in multi-family buildings.

FISCAL IMPACT

According to Ms. Madison, approximately \$662,823 in Department of Building Inspection permit fees¹ have been waived since the passage of the original legislation in July 2015. In addition, according to Ms. Deborah Landis, Deputy Director of Administration at the Planning Department, approximately \$938,712 Planning Department permit fees² have been waived. A total of \$1,601,535 in permit fees have been waived for both departments since the passage of the original legislation in July 2015.

According to Ms. Madison, the Department of Building Inspection estimates that approximately \$800,000 in permit fees will be waived during the extension period (January 1, 2020 through December 31, 2024) of the proposed ordinance. Ms. Madison states that this estimate is based on the existing total amount of fees waived since July 2015 and an anticipated increase in waived

¹ This includes the Department of Building Inspections' Plan Review, Express Plan Review and Site Permit Surcharge fees.

² This includes the Building Permit Planning Review fee for an existing building.

fees now that the program is better known. According to Ms. Landis, the Planning Department estimates approximately \$1,000,000 in permit fees will be waived during the extension period of the proposed ordinance based on the existing total amount of fees waived.

Impact of Fee Waiver

As noted above, the existing waiver of building and planning permit fees to legalize existing ADUs has resulted in 169 units being legalized. Although the existing data cannot tell if property owners would have applied to legalize existing ADUs in the absence of the fee waiver, the impact of the fee waiver to the Building Inspection and Planning Department permit revenues over five years is not large.

RECOMMENDATION

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