

File No. 210015 Committee Item No. 1  
Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date February 22, 2021

Board of Supervisors Meeting Date \_\_\_\_\_

#### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

#### OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referral CEQA 011321</u>      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Referral BIC 011321</u>       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>CEQA Determination 011321</u> |
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Completed by: Erica Major Date February 18, 2021  
Completed by: Erica Major Date \_\_\_\_\_

## **LEGISLATIVE DIGEST**

[Building Code - Expanded Compliance Control and Consumer Protections Where History of Significant Violations]

**Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department's determination under the California Environmental Quality Act.**

### Existing Law

The Building Code does not contain mandatory provisions for tracking a project, individual, agent, or entity's history of involvement in permits with significant violations, nor any expanded compliance control provisions for projects, individuals, agents, or entities found to have a history of significant violations.

### Amendments to Current Law

The Proposed Legislation would require that Department of Building Inspection ("DBI") inspectors provide a report to their Senior and Chief Inspector each time the inspector issues a Notice of Violation involving a significant violation of the Building Code. The significant violations that trigger a report include misrepresentation of conditions at the project site; structural work or demolition without or beyond the scope of a permit; other work without or beyond the scope of a building permit that endangers health and safety; and any other violations determined by the inspector as substantial non-compliance with City codes. The report shall contain a description of the violation and identify all individuals, agents, or other entities associated with the permit or project in DBI's permit tracking system.

The Proposed Legislation mandates the collection of these reports in a Compliance Control Tracking File, which must be reviewed by the DBI's Inspection Services Division on a monthly basis to determine if any project, individual, agent, or entity has been identified on three or more reports in the last 18 months. Any such projects, individuals, agents, or entities shall be candidates for placement on the Expanded Compliance Control List ("List"). Additionally, the Chief Inspector may place a candidate on the List for any egregious violation(s) even if the candidate does not have three separate violations within an 18-month period.

To ensure fair and efficient use of Expanded Compliance Control resources, the Proposed Legislation proscribes a detailed administrative process before placing a candidate on the List. For each candidate, the Chief Inspector must draft a summary report describing the violation(s) and any exculpatory evidence relevant to whether the candidate should be placed on the List. The summary report would then be evaluated by the Deputy Director who may

seek additional information from DBI staff and/or the candidate and must determine whether placement on the List is appropriate. The Deputy Director must support that determination with written findings. The Deputy Director's determination would then be reviewed by the Director, who shall make the final listing determination and issue written findings in support of that determination. The Director's determination and findings shall be sent to the candidate and placed on DBI's website. Any person may appeal the Director's determination to place or not place a candidate on the List by filing an appeal to the Building Inspection Commission within 15 days of the posting of the determination on DBI's website. The List will be available on DBI's website and provided to the Building Inspection Commission on a quarterly basis.

Projects, individuals, agents, or entities placed on the List ("listees") shall remain on the List and subject to Expanded Compliance Control measures for five years. Any subsequent violation(s) by a listee restarts the five-year period.

The Proposed Legislation mandates DBI perform the following Expanded Compliance Control measures for each listee: 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 multi-station review at intake by Planning, Fire, and Public Works in addition to DBI; notify the listee and all other parties associated with the listee on a permit application or addenda of the Expanded Compliance Control requirements; require site inspection by all applicable reviewing departments 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; and, if warranted, consult with City Attorney about any other enforcement options.

The Proposed Legislation would also require training for all DBI permit review staff on how to identify signs of potential abuse of the permit process and misrepresentation by applicants and mandate escalation of permits indicating significant issues to senior DBI staff and Planning Department.

### Background Information

Significant violations of the Building Code threaten public health and safety; require DBI time and resources to identify, enforce, and abate; and often result in costly litigation and delay in repairing or constructing much needed housing throughout the City. For all parties—property owners/consumers, residents, DBI, and the public at large—it is safer, more cost-effective and efficient to adopt expanded compliance control provisions that ensure compliance throughout the permit review process, rather than address violations after the fact through enforcement proceedings.

A substantial portion of the most significant Building Code violations involve repeat actors—a small handful of projects, individuals, agents, and other entities. DBI may apply informal compliance control and permit review for such repeat actors that warrant additional scrutiny

due to known abuses of the permit process, but there is no codified process that identifies criteria, tracks candidates, or details mandatory compliance control measures for such entities.

The Proposed Legislation addresses this need by: codifying a reporting process to track significant violations and all parties associated with such violations; mandating monthly review of tracking reports to identify candidates for expanded compliance control measures; creating an administrative process to review and appeal determinations regarding placement of candidates on the expanded compliance control list; detailing what expanded compliance control measures are required; and mandating training and issue escalation for permit review staff.

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**BUILDING INSPECTION COMMISSION (BIC)**

**Department of Building Inspection  
49 South Van Ness Avenue, 5<sup>th</sup> Floor San Francisco, California 94103**

**Voice (628) 652 -3510**

February 18, 2021

London N. Breed  
Mayor

**COMMISSION**

Angus McCarthy  
President

Jason Tam  
Vice-President

Alysabeth  
Alexander-Tut  
Raquel Bito  
Kevin Clinch  
Jon Jacobo  
Sam Moss

Sonya Harris  
Secretary

Patrick O’Riordan,  
C.B.O.,  
Interim Director

Ms. Angela Calvillo  
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. 210015**

**Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department’s determination under the California Environmental Quality Act.**

The Building Inspection Commission met and held a public hearing on February 17, 2021 regarding File No. 210015 on the proposed amendment to the Building Code referenced above. The Commissioners voted unanimously to **recommend approval** of the proposed Ordinance with the following amendment: There is a big difference between a contractor making an honest mistake, compared to someone who deliberately and strategically manipulates the system to avoid the public process. Please continue to refine this legislation so that it only applies to the deserving group.

President McCarthy	Yes	Vice-President Tam	Yes
Commissioner Bito	Yes	Commissioner Clinch	Yes
Commissioner Jacobo	Yes	Commissioner Moss	Yes
Commissioner Alexander-Tut	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, Interim Director  
Mayor London N. Breed  
Supervisor Hillary Ronen  
Supervisor Aaron Peskin  
Supervisor Matt Haney  
Board of Supervisors

BOARD of SUPERVISORS



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

January 13, 2021

**File No. 210015**

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On January 4, 2021, Supervisor Ronen submitted the following legislation:

**File No. 210015**

**Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department's determination under the California Environmental Quality Act.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

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.

01/13/2021

A handwritten signature in cursive script, appearing to read "Don Lewis".

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Planning Department  
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Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning



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## MEMORANDUM

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

FROM: Erica Major, Assistant Clerk, Land Use and Transportation Committee

DATE: January 13, 2021

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Ronen on January 5, 2021:

**File No. 210015**

**Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department's determination under the California Environmental Quality Act.**

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: [Erica.Major@sfgov.org](mailto:Erica.Major@sfgov.org).

c: John Murray, Department of Building Inspection  
Patty Lee, Department of Building Inspection

# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

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

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

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

Sponsor(s):

Ronen; Peskin, Haney

Subject:

[Building Code - Expanded Compliance Control and Consumer Protections Where History of Significant Violations]

The text is listed:

Ordinance amending the Building Code to implement expanded compliance control and consumer protection provisions for projects, individuals, agents, and entities with a history of significant violations; and affirming the Planning Department's determination under the California Environmental Quality Act.

Signature of Sponsoring Supervisor: /s/ Hillary Ronen

For Clerk's Use Only