



The BOMA San Francisco

ADVOCATE

An Update on Legislative, Regulatory, and Political Issues Affecting Commercial Real Estate

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June 14, 2001 Volume 7, Number 2 **Special Land Use Issue!**

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ABC Building Services, Inc.

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Board of Supervisors Bestows Conditional Use Permit Appeal Powers to Itself

The San Francisco Board of Supervisors recently passed legislation to allow a minimum of 5 supervisors to appeal any conditional use permit to the Board of Permit Appeals on behalf of tenants, commercial or residential. This changes the previous rule that only allowed an appeal if 20% of the property owners within 300 feet objected to the project. Supervisor Aaron Peskin, who authored the legislation, vowed he wanted to give tenants the same rights as property owners in appealing decisions made by the Planning Commission. This interim measure will last until a permanent law is passed that accomplishes this goal, according to the downtown district supervisor.

Does Supervisor Mark Leno Like Bikes more than Buildings?

Supervisor Mark Leno (who recently declared his candidacy for the state assembly) is proposing legislation to amend the City's planning code to continue implementation of the City's "Bicycle Transit Improvement Plan". If approved, the legislation would mandate the building owner must provide a specified number of parking spaces and/or lockers for bicycles within their building (even a building without a garage), as a condition of future building permits, if the building does a tenant renovation that costs more than \$1 million and enlarges its size. BOMA's Transportation Task Force has suggested that alternatives must be considered before mandating all improved buildings allow bicycles onto their premises. It is unclear if the bicycle parking requirements for all public garages, passed in 1998, are insufficient to cover the needs of the city's bicyclists. Leno's draft legislation is File #010488. Call BOMA for a copy of it and/or the 1998 SF bicycle parking ordinance affecting garages, that also mandates showers be provided for bicyclists in new buildings or those being expanded.

Parking Regulations Stiffened in SF for Lot and Garage Operators

Supervisor Mark Leno also introduced legislation that the Board recently passed which lays new requirements on all operators of parking lots or garages in SF. Specifically, the new ordinance will mandate that all operators be able to produce receipts on site for customers, and to be able to electronically track and transmit records of parking revenues to the city. BOMA's Transportation Task Force petitioned Supervisor Leno to adopt a pilot program first, and suggested the city review its auditing practices first before adopting new and costly controls on the entire industry, but was unsuccessful. In a related measure, the payment bonds the city requires all parking lot operators to post was raised.

Multimedia Space to be Reclassified as Office

Legislation was recently introduced by Supervisors Leno, Peskin, Newsom, Ammiano and McGoldrick that would reclassify a number of previous "business services" categories as "office use" in the future. The ordinance would make advertising, public relations, computer and multimedia uses and research and development *office uses* by amending Section 219 of the city's planning code. BOMA has been interested in the city re-classifying space that may currently be vacant due to the so-called dotcom crash as office, with the payment of the office development fees, but would like to see some retroactive language to help this particular change of use designation avoid the delays at Planning.

SPUR Initiates Study of Sustainable Development Regulations for Public and Private Projects in SF

In the June issue of its newsletter, the San Francisco Planning and Urban Research Association (SPUR) laid out an ambitious call for the creation of a comprehensive set of sustainable policies that would be applied to all new developments in the city. The SPUR committee noted that sustainable developments weren't built more often in SF, often because of code barriers and added expense. The committee recommended various codes be changed to make it easier for buildings to use natural ventilation; allow rainwater to be captured and put to use on site; ensure office workers have natural light in their work spaces; require energy efficiency retrofits whenever buildings are upgraded or sold; require non-toxic materials be used for better indoor air quality; require buildings to be built with dual plumbing so recycled water can be used for non-potable purposes; encourage productive rooftop uses (solar panels, windmills, gardens, etc.); reduce parking requirements; clarify the light and air goals of the Downtown Plan; and reform the city's guidelines for contract specification, procurement, and capital planning to incorporate strong green building requirements. BOMA has requested SPUR invite representatives from our membership to participate in this endeavor.

Server Farm Restrictions Passed by SF Board of Supervisors

10th District Supervisor Sophie Maxwell (Bayview/Hunter's Point and Potrero Hill) recently introduced and got the Board to pass new temporary restrictions on the construction of server farms (internet storage facilities) in the city. Now, all new server farms will be classified as utility installations and will require a conditional use permit so each facility can be scrutinized for its estimated energy use, emergency power backup generator setup, and impacts on the neighborhoods. Exemptions were provided for internet service exchanges under 35,000 sq. feet in area that would need less than 2 megawatts of backup power generation. Contact BOMA for a copy of the ordinance.

New Billboard Advertising Restrictions On Horizon for SF Building Owners

Supervisor Mark Leno has introduced legislation to restrict the placement of advertising on the sides of buildings in SF. Prompted by San Francisco Beautiful, the supervisor's legislation will increase fines for illegal advertising signage, and will require all billboards to have a license number and allowable size specifications displayed prominently on the advertisement. The legislation will not grandfather existing signs that cannot produce a valid permit. Special restrictions were specified for the south of Market use districts.

Supervisors Move to Restrict Development in the Mission District

A resolution adopting "interim" controls on new developments in the Mission District of San Francisco is slated for public comment June 20th (10 am) at the Supervisor's Housing, Land Use, and Transportation Committee meeting. This proposal would prohibit tourist hotels, market rate housing projects, office or information technology uses in excess of 1,500 sq. ft. in industrial areas, and require conditional use permits for any business or professional service that needed more than 2,000 sq. ft. of space, unless it's a nonprofit. The measure is aimed at shutting down further gentrification of the Mission district, and, if passed, will effectively downzone that area of the city.

BOMA Supports Expansion of Potrero (Hill) Power Plant

The BOMA Energy Committee expressed its support to Supervisor Sophie Maxwell for the expansion of the Potrero (Hill) Power plant, located in her district. The following reasons were given: BOMA buildings need the power, the City can't shut down the older, more polluting Bayview plant until the power it produces is replaced, and having a dependable local source of emergency power was of critical importance to downtown buildings and businesses. The Board of Supervisors recently passed legislation that could place unrealistic demands on the owners of the Potrero plant. If this legislation is not modified it could potentially cause major delays in any upgrading of the facility and jeopardize power reliability for San Francisco. There is no other workable site in SF for this much-needed power plant expansion.

San Francisco to Consider Forming a MUD or a Municipal Water and Power Agency on Fall Ballot

Supervisor Tom Ammanno, (District 9, Mission/Bernal Heights) and the current Board President, is championing several measures to empower the city to take over the production, sale and transmission of electricity, steam, and other energy in San Francisco. The voters will decide this issue in November. The charter change would allow the city to establish both public and private water and energy efficiency goals. The new agency would also establish new water, sewer, and power impact fees on all new developments. BOMA and several other business organizations have been invited to work with the Supervisor on this legislation, and are providing input, but have not committed to support it at this time. This charter change would be massive, and have long term consequences, many of them unknown. More details on this measure will be forthcoming soon.

Solar Power Revenue Bond Measure to be on Fall City Ballot

Supervisor Tom Ammiano is also spearheading a revenue bond measure to create 50 megawatts of solar energy in the city over the next 7-10 years, by having the city's public and private buildings install rooftop solar power panels. This project is hoping to meet approximately 5% of the city's total electricity load at completion. If passed, the city will issue an RFP for competitive bid contracts for all or part of the design, manufacture, installation and maintenance of the solar energy panels. Several scenarios for participation by building owners and homeowners are laid out in the measure.

Have You Checked Out the BOMA San Francisco Website for Energy Information? You Should!

BOMA's Energy Committee, chaired by Dale Tate (Glenborough Realty Trust) has assembled an impressive array of information pieces about energy conservation, for both building managers and their tenants, as well as extensive information on the rebate programs and other incentives that building owners might want to employ to reduce their energy consumption. Other valuable links are added to help you find out what your power costs may be in the future, and what you can do in the event of a blackout. Check it all out! <www.bomasf.org>

New State Energy Standards Took Effect June 1, 2001

AB 970, passed last summer by the state legislature, empowered the California Energy Commission to issue new requirements for energy efficiency in commercial construction. These new code changes will impact new construction in office buildings as well as renovations in existing buildings. Here's a short summary of the lighting changes submitted by Jack Sargent of Glumac International, who has prepared a more detailed report available from the BOMA office.

1. Some minor changes in LPDs are intended to fall in line with ASHRAE 90.1/1999.
2. Big changes in the requirements for dual level switching. It's now required in most rooms over 100 sq. ft. even though motion sensors or automatic timer controls are also installed.
3. Large offices must now include an allowance for portable lighting, or have a signed statement to the effect that the actual portable lighting power is accounted for. Exit sign lighting is still excluded from the actual watts for lighting if they have a power input of less than 5 watts per face.
4. Outdoor lighting is now brought under the wing of T-24, probably a portent of things to come. Automatic lighting controls are required to shut off lights in all buildings, regardless of size. The previous 5,000 sq. ft. building or smaller exception has been eliminated.

The goal is that permanent lighting will be reduced by up to 15% and the overall energy efficiency requirements will be 15-20% tighter on nonresidential projects. To download a complete copy of the new standards, go to www.energy.ca.gov/ab970standards/documents/index.html.

Building Owners to Get Larger Fines for Litter Left in front of their Properties

The San Francisco Department of Public Works recently sent all property owners an advisory that enforcement would be beefed up for trash left on sidewalks in front of their properties. This is true for residential and commercial buildings. In the "Notice of Responsibility" the DPW warned owners that they are solely responsible for keeping sidewalks and curbs clean and that they have to spend time sweeping sidewalks. Fines are currently \$80 per offense but the public works department is seeking to raise that to \$300. The emphasis will be on those properties which habitually have littered sidewalk fronts. San Francisco employs 5 city trash workers per square mile while New York City has 35.

Gross Receipts Taxes Repealed!

The San Francisco Board of Supervisors recently repealed the Gross Receipts measure for calculating San Francisco business taxes. This change was approved by the Board on April 23, 2001, signed by the Mayor on April 25, 2001, and went into effect Friday, **May 25, 2001**. The Payroll expense measure for calculating business taxes is not affected by the repeal of the gross receipts measure. This revision to the Business Tax Ordinance may affect business owners in the following ways:

1. After May 25, 2001, businesses will no longer be required to report gross receipts or pay taxes based on gross receipts. Instead, only payroll expense will be used to calculate San Francisco business taxes.
2. The Small Business Exemption (which exempts businesses with a calculated tax of less than \$2,500 a year - equating to approximately \$167,000 in payroll - from paying tax) will remain intact.
3. Customers who are registering new businesses or adding new fictitious business names (DBAs) to their current business registrations will no longer be required to provide estimates of their annual gross receipts.
4. Starting with the Tax Year 2002, businesses will pay Business Tax Registration Renewal fees based solely on their estimated payroll expense for the upcoming year.

BOMA San Francisco Adopts New Land Use Policies

Both BOMA's Government and Public Affairs Committee and Board of Directors recently adopted new policies governing our position on land use decisions in the City. San Francisco has many challenges ahead in appropriately planning for new commercial and residential developments. There is a balance that must be maintained, and these principles are being promulgated with that in mind. We hope the city's leaders will support them with us.

BOMA San Francisco Land Use Policy Statement – 2001

The Building Owners and Managers Association of San Francisco supports land use policies that are reasonable, rational, and sustainable measures that will enhance the economic growth and vitality of the City, create jobs, sustain property values and protect property owner rights. Specific recommendations include:

Zoning Controls

The city should not use zoning to create special districts for the protection of any class of commercial tenant which infringes on the rights of property owners. Such agreements should be voluntary and exclusive between the city and the developer or owner of any given project. Further, the city should use restraint when requiring special use permits, especially for previously permitted uses. Such actions as the recent requirement for all "internet server farms" to obtain a conditional use permit substantially adds to the time, cost, and uncertainty of development, and in turn acts as a major disincentive for new business.

Commercial Rent Controls

Commercial rent control is prohibited by state law. San Francisco should not consider any local legislative initiative that would attempt to sidestep the law. Such action would be devastating to the city's tax base, the real estate community, and lead to an overall deterioration of the city's commercial office buildings stock.

Parking and Transportation

The city should support the appropriate development of off-street parking facilities to balance the needs of its citizens and commerce. This is not only needed in SOMA, but in many neighborhood commercial business districts. The city should not support the enactment of any downtown transit assessment district. Such a tax would be punitive and unfair, as transportation services benefit the entire city by bringing jobs and opportunities to all city residents.

Growth Controls

The city should not impose artificial growth controls on commercial real estate. Given that Prop M was passed in 1986, and is still in effect, the city should move to at least exempt all government projects or those being built on city-owned property (such as the Port of San Francisco land) from such limits. Business services classifications should be considered office, with limited exceptions, and should pay the same fees as applied to office space. Further, the city should promote the construction of mixed-use, high density development along transportation corridors, whenever feasible, to maintain San Francisco's downtown as a 24/7 city.

Permits and Code Interpretations

The city should support consistent interpretations of planning, land use and building codes by all departmental employees. The city should support reasonable suggestions from the industry to enhance the plan review and permitting process for commercial development, and utilize public advisory committees in all relevant city departments to work with business and community groups to effect positive changes.

BOMA Announces 2nd Annual Commercial Recycling Awards Program

BOMA San Francisco's Recycling Task Force, Chaired by Mark Rumpler of Hines, in partnership with the City's Solid Waste Management Program, has announced a new and expanded awards program recognizing the best commercial recyclers in the city. Three size categories of buildings and several special categories (single tenant, hotels, restaurants) are eligible to enter and win up to \$20,000 each in prizes! Applications will be available soon, and the deadline for entering is September 15, 2001. The awards will be presented at the November 29th BOMA luncheon. A briefing on HOW to ENTER and WIN will be held July 11th at noon at 1275 Market Street. All members are encouraged to attend to learn more about the CORY awards! Please call Francine Anderson at BOMA to confirm your attendance. (free)

2001 California State Disability Access Construction Valuation Threshold

In case you were wondering what the threshold is for requesting an unreasonable hardship under CCR Title 24, Part 2, Section 1134B.2.1, Exception 1, it is \$93,131.86.