



The BOMA San Francisco

# ADVOCATE

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

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*Inquiries about the Advocate? Call Governmental Affairs Director **Ken Cleveland** (415)362-2662x11(kenc@boma.com)*

## **BOMA Opposes Public Power Initiatives on November 6<sup>th</sup> SF Ballot**

The BOMA San Francisco Political Action Committee has taken an **opposed** position to the two city ballot measures that would municipalize the city's electrical power production, transmission and distribution infrastructure, namely **Proposition F** (authored by Board of Supervisor President Tom Ammiano) and **Measure I** (the Municipal Utility District measure, which would also include Brisbane). Both measures seek to take the system operated by PG & E for the past 75 years away from the currently bankrupt utility company and place its electrical service into a government department or under a separately-elected local government board. The BOMA PAC reviewed the issue thoroughly, and decided it was too risky to takeover such a huge operation as this at the present time of international uncertainty and economic downturn. Further, no studies have been produced to say how much it will cost to municipalize the electrical system, nor if this action will provide any increased reliability or lower the costs of the system and the electricity it would produce or purchase. It would increase the size of the local government bureaucracy, but that is not something our business organization would support. BOMA SF's PAC has also decided to actively support a campaign to oppose the passage of these two measures, and seeks additional funds from all members to its Ballot Measure PAC (#ID 970432) to help us get the message out about the bad possible effects of such a government takeover of our heretofore privately-owned power system at this time. Please send a check made out to **BOMA-SF-PAC Ballot Measure PAC** c/o the BOMA SF office address today! There is no limit to what you can contribute.

In a related political matter, the BOMA-SF-PAC did not endorse any candidate for City Attorney, but has contributed funds to three of the four candidates running. An endorsement may be made after the general election, prior to the expected runoff. The PAC did support and endorse **Susan Leal** for re-election as City Treasurer. Ms. Leal has done much to professionalize that office, and to make it more customer-friendly. Ms. Leal has shown herself to be a good fiscal manager and a wise steward of the city's revenues. She's an admired leader in city government, both by her colleagues and her staff. She is most worthy of another term and should be reelected.

## **BOMA's Public Policy Forum October 25<sup>th</sup> to focus on Public Power and SFO Expansion/Security Issues and will be Hosted by Phil Matier of the San Francisco Chronicle**

Phil Matier, noted political columnist for the San Francisco Chronicle, will moderate the 2<sup>nd</sup> Annual Public Policy Forum October 25<sup>th</sup> at the Palace Hotel. The program will feature presentations by Stuart Sunshine (SFO), David Lewis (Save the Bay), Ed Smeloff (San Francisco PUC), John Nimmons (John Nimmons & Associates), Jim Ross (political consultant), Frank Gallagher (Coalition for Affordable Public Services), and Ross Mirkarimi (MUD Now campaign director). Get a thorough understanding of the issues surrounding public power and what the two ballot measures will do that call for public ownership of the local electrical system. You will also hear what is happening at San Francisco International airport these days with regards to future expansion plans for its runways, and how events of September 11<sup>th</sup> have changed its priorities, especially with regards to airport security. The Forum is being supported by The San Francisco Business Times and Farella Braun + Martel, LLP. It will be held from 8:30 - 11:30 a.m., prior to the October

BOMA luncheon featuring Dan Walters, political commentator for the Sacramento Bee daily newspaper. Cost: \$75. Register online at [www.bomasf.org](http://www.bomasf.org). Luncheon cost is \$45.

## **News from the SF Department of Building Inspection**

### **A. OTI Seminar Review**

The BOMA Building Codes Task Force, in conjunction with the city's building department, hosted a very successful Office Tenant Improvement seminar October 3. A number of interesting things were learned at this session:

1. The Office Tenant Improvement permit process was created in 1991.
2. Building Owners/Managers should always keep records of every permit pulled in their building (whether by the building management or a tenant).
3. Identify the scope of the project early. Be aware that the department has revised its valuation schedule.
4. Determine who will represent the tenant at the building department.
5. Use the OTI 1 checklist, and print it on a page of the drawings for the job.
6. Pinpoint possible code compliance issues beforehand and offer solutions. Do it when paying fees to both fire and building departments.
7. Arrange pre-app meetings whenever there are doubts about a project gaining approval.
8. Applications for OTI permits are accepted between 8 a.m. and 12:00 p.m. Monday – Friday only. The afternoons are used to evaluate submittals.
9. You can't use the OTI process if your plans have to go to/through Planning.
10. The owner is ALWAYS responsible for code compliance, whether or not they do the work.
11. Costs are figured on the Marshal & Swift index and should be split out by OTI 1 and OTI 2 costs.
12. Multiple floor renovations require separate OTI permits for each floor.
13. Remember to be complete on the pink sheet, as that is the information that is microfilmed for the future.
14. The SFFD does not recognize (allow) magnetic locks, and the only area that allows them is elevator lobbies with specific approval by Fire Marshal. (See special bulletin on this issued by the Department.)
15. Questions? Call Simon Tam at 415-558-6084 (DBI) or Al DeBella (SFFD) at 415-558-6379. A fax copy of the OTI Process Guide and Checklist is available from the BOMA office. (Latest revision: 6/25/01)

Special thanks are extended to Laurence Kornfield, Spencer Gosch, Cpt. Mario Ballard and Inspector Bill Mitchell for their participation on this seminar panel. Thanks also to BOMA task force member participants Jeffrey Feldman (IA Associates), Gordon L'Estrange (Ottolini, Booth & Associates) and Ken Cochrane (BCCI Construction).

### **B. Base Building Permit for disabled access compliance**

The DBI's public advisory committee is investigating the possible creation of a "base building permit" that would cover the common areas of a building for access compliance for a period of time (3-5 years is sought by BOMA). This permit would eliminate much re-submittal work that is currently required for each tenant buildout or remodel. If any member would like to participate in the development of such a permit, please contact me at 415-362-2662, ext. 11. The process would not exempt any building from its accessibility requirements, but would attempt to speed the OTI permit process along by simply attaching a copy of the base building permit on file to each tenant permit application.

### **C. Graphical Standard for disabled access to be created**

Members of BOMA's Codes Task Force have volunteered to create a code-worthy graphical standard for disabled access patterned on the work of Richard Skaff's "Quick Sheets". This effort, chaired by Gordon L'Estrange of Ottolini, Booth and Associates, would cover the most frequently questioned areas for disabled access, such as restrooms, entryways, path of travel, parking areas and elevators.

### **D. Special Bulletin on Aisle-widths for disabled access in retail stores abandoned**

DBI Director Frank Chiu has decided to suspend further development of a bulletin to define accessibility in and around moveable merchandise racks in stores beyond what is already required under state law. There had been an effort to publish such an administrative bulletin as an assist to the small business community, but it was viewed as an attempt to take more selling space away from their establishments, and place SF businesses at a competitive disadvantage with other jurisdictions. Several lawsuits have already been filed against CA retailers by disabled activists for inaccessibility to merchandise, but the courts have termed moveable merchandise racks (if not fixed to the floor) as not covered under Title 24 of the state building code. ADA, however, still applies and could be used for any legal action sought against an individual building or store owner for violations of a disabled person's civil rights for equal access.

### **E. New evacuation requirements for disabled persons?**

Following the September 11<sup>th</sup> World Trade Center attacks, some disabled activists are calling for new measures to protect and more quickly evacuate disabled persons from a building. A look at this and other needs for all building occupants is under way as BOMA establishes a new Safety and Security Task Force to review what prudent measures all

buildings must have in place to deal with such emergencies. If any member has an interest in this subject, please let me know, and plan on attending the first organizational meeting October 30 at 2 p.m. at the BOMA office.

#### **Upcoming Recycling/Public Works Brown Bag Meetings**

The Solid Waste Recycling Task Force (BOMA's recycling committee) will host two more brown bag luncheon workshops on recycling issues this year. The next one is on **recycling carpet** and will be held November 6 at 44 Montgomery Street, Lower Level, Meeting Room A, at 12:00 noon. Lunch is being provided courtesy of J & J Commercial and Milliken Carpet so prior registration is required. On December 4<sup>th</sup>, the Task Force will host a final 2001 brownbag workshop on **furniture recycling**, also at the 44 Montgomery Street location, at noon. No charge.

And speaking of brown bags to not miss: if you have "issues" with sidewalk permits or with sidewalk maintenance, please attend the DBI brownbag luncheon on November 15<sup>th</sup> at noon at 1660 Mission Street, Second floor conference room. John Kwong of the Dept. of Public Works will lead a discussion on these matters and invites your input. Call Laurence Kornfield, Chief Building Inspector, Technical Services Division, at 415-558-6205 for further information. No charge.

#### **Governor Signs SB 20 Granting Janitors Additional Work Protections**

Effective January 1, 2002, Senate Bill 20 will go into effect, and will bring San Francisco's Displaced Worker Protection Act to the rest of California. The legislation requires that janitorial or building maintenance contractors who are awarded contracts to provide such services to buildings must retain the employees of the previous contractor for a minimum period of 60 days, and to offer those previous employer's employees continued employment if their performance is satisfactory during that initial 60 day period. Championed by the Service Employees International Union, this law will allow employees (or their agent such as a union) to bring an enforcement action in court against any employer who does not retain the workers of the previous contractor for the specified period and would allow local governments to adopt stricter standards or additional enforcement provisions as desired. It will also make it much easier for the SEIU locals to organize non-union janitorial and building maintenance contractors throughout the state. Call the BOMA office for a copy of this five-page bill.

#### **Prop 65 Revised**

Governor Gray Davis also signed legislation this month amending the California Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65. This action will do several things, according to a published update from **McCutchen, Doyle, Brown & Enersen, LLP**. All settlements are now subject to mandatory court approval. Private settlements must be submitted to the Attorney General who is able to object without intervening in the lawsuit. Public prosecutors may recover costs and attorney fees for citizen groups that assist them in Prop 65 cases. Each plaintiff is required to include with its initial 60 day notice of violation a non-discoverable certification that the claim has scientific merit, and, finally, the court's assessment of civil penalties must be guided by statutory criteria. As the revisions take effect January 1<sup>st</sup>, it is possible that active Prop 65 plaintiffs will file more than the usual number of complaints to avoid the burden of the new certification requirement. These complaints would have to be based on notices provided at least 60 days in advance. More changes are in the works for Prop 65 via the Attorney General's office, whose office solicits input from BOMA and other groups for future legislative changes. Because it was a statewide ballot measure, any changes must be approved by 2/3 of the Legislature, and not distort the original intent of the law.

#### **California Public Utilities Commission Kills Direct Access Contracts for Power**

The CPUC on September 20<sup>th</sup> passed a ruling that forbids companies in California from signing any new contracts for power from so-called *direct access providers* as of that date. Existing contracts are not affected. This action forces building owners to purchase power only from their local utility company to ensure the state will have enough customers for the power it purchased earlier this year for the state's three largest investor-owned utilities. Unfortunately, some of these contracts extend out for 20 years so the likelihood of a future open market for power purchases in the near term is practically zip. Still unknown are any penalties (extra fees) that firms may have to pay to establish co-generation or distributive generation facilities that would take them off the grid.

#### **Have the Latest Authorized Alarm Companies List from the San Francisco Fire Department?**

The SFFD publishes a new list of "authorized" alarm companies every year. If you don't have the 2001 roster, call the BOMA office for your copy. The contractors listed are eligible to provide UL Certificates for fire alarm systems in SF. They install, service and test fire alarm systems in accordance with the requirements of the 1998 SF Fire Code.

### **Street Vendors Out of Control?**

The city sidewalks have seen an increase in unlicensed peddlers setting up shop in recent months. The Dept. of Public Works says the building owner or manager must complain before action can be taken against such vendors. Here is who to call: Howard Lazar, Director of the City's Street Artist Committee, at 415-252-2581. This sort of illegal city-subsidized activity is unwelcome to our rent-paying tenants, and steals business away from them. It must stop!