



The BOMA San Francisco

ADVOCATE

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

Route to >> _____

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*Inquiries about the Advocate? Call Government and Public Affairs Director **Ken Cleaveland** (415)362-2662x11(kenc@boma.com)*

BOMA California Annual Legislative Day Brings Members to Sacramento

BOMA California held its annual Legislative Day in Sacramento March 13th, and BOMA San Francisco was well represented in its meetings with our state legislators. Led by our former BOMA SF President Todd Robinette (Equity Office Properties), our delegation included Steve Colvin (Boston Properties), Margot Crosman (Unico Properties), Jerry Cahill (Calfox), Larry Vollintine (Farella, Braun + Martel), Bruce Schilling (August Supply), BOMA SF EVP Marc Intermaggio and Government Affairs Director Ken Cleaveland. The BOMA delegation split up into two teams and visited the offices of four legislators each. BOMA was fortunate to be able to meet personally with Senators **John Burton** (SF), Senator **Byron Sher** (San Mateo), and Assembly Members **Joe Nation** (Marin), and **Joe Simitian** (San Mateo). The teams met with legislative aides at Assembly Members Lou Papan (Daly City), Kevin Shelley (SF), and Carole Migden's (SF) offices, and at Senator Jackie Speier's (western SF and northern San Mateo counties) office. BOMA California is opposing several bills currently under consideration, and is co-sponsoring another bill (**AB 2041**, Vargas) with the City and County of San Diego, to extend immunity protections to building owners for the installation of automated external defibrillators (AEDs). The bills BOMA members expressed concern over were:

- **SB 1241** (Figueroa) which would eliminate the ability of building owners to hire security guards with temporary cards. BOMA members suggested the bill needed to be amended to allow owners more flexibility as the time delay for guards to receive their background clearances, and guard cards from the Dept. of Justice was ranging from 2 weeks to 2 months. With such a shortage of personnel available to hire as guards, it will be even harder to keep buildings fully staffed with security personnel if this bill is not amended to allow for immediate hiring of persons with a temporary card for at least several months.

- **SB 1466** (Alarcon) would make any contracting entity (including building owners) who contracts for specified services, such as janitorial work, subject to penalties if they knew or should have known that the contract price provided insufficient funds to comply with state labor laws. BOMA members pointed out this law would put owners in the position of policing their subcontractors and requiring them to be given proprietary information from the contractors. BOMA members also argued that many vendors may submit lower bids to do a project than that one project would cost, in the hopes of gaining additional work with a particular client. This law would disallow such "loss leader" proposals. BOMA is hopeful the authors of both of these measures will amend them to eliminate our concerns.

- **Split-roll taxation**: Although no bill has been introduced, the BOMA delegates spoke against any attempt by legislators to vote in a split-roll tax law, taxing commercial real estate at a higher rate than residential. Key arguments included the fact that raising taxes on commercial real estate will be passed on to the tenants, who primarily are small businesses in the state. The further investment by real estate investment trusts will also be killed by such legislation. (Split roll taxation would re-evaluate REIT's commercial property holdings every time a majority of its stockholders changed hands, thereby increasing operating costs.)

The members enjoyed a reception and dinner after their appointments at the Esquire Grill, which was hosted by our lobbyist and State Director Les Spahnn (Heim, Noack, Kelly and Spahnn), who has been BOMA's very effective state advocate for 15 years.

BOMA-SF-PAC Wins Some/Loses Some in March 5th Endorsements

The BOMA-SF-PAC was delighted to see both Supervisor **Mark Leno** and Supervisor **Leland Yee** win their respective Democratic primaries to become the next two state Assembly Members from San Francisco. Although our local PAC does not contribute to state races, it did request and receive contributions from our BOMA California PAC to both candidates in their first bids for state office. BOMA San Francisco also requested and received support from our state PAC for **Carole Migden** in her bid for the Democratic nomination for District 1 seat on the state Board of Equalization, and for **Kevin Shelley** in his successful bid for the Democratic nomination for CA Secretary of State.

As for the local propositions on the ballot, BOMA's success rate was less than hoped for. BOMA did not support **Prop A**, the so-called "instant run-off" ballot measure, which won, as our Board did not feel it would allow voters the opportunity to have a second look at candidates, nor would it help moderates win office. BOMA's PAC believed it will be difficult to manage, and difficult for many voters to understand. BOMA also opposed **Prop D**, which will give certain appointment powers for the Planning Commission and Board of (Permit) Appeals to the City's Supervisors, reducing the Mayor's ability to shape these bodies based on citywide priorities rather than neighborhood concerns. BOMA's PAC is concerned that city planning in general is becoming more and more balkanized, and that this proposition will only accelerate the uncertainty and chaos present in local planning today in San Francisco. Unfortunately, Prop D also passed. Lastly, on a positive note, BOMA's PAC was cheered to see **Prop F** pass, which will establish an oversight committee on future general obligation bond expenditures. BOMA's PAC has long felt that the city did a very poor job of documenting its bond expenditures, and the recent revelations of misuse of funds by the city's school board only verified that concern. This new committee will help raise the confidence of the city's taxpayers that monies appropriated for certain uses will actually be the ones the money will be spent on. (instead of salaries, and other operational uses)

BOMA's Government and Public Affairs Committee Gears Up for Action

Nothing is more important to the future of commercial real estate than a local government that acknowledges and appreciates our industry for the contributions it makes to the local tax base. BOMA, working through its Government and Public Affairs Committee, and PAC, has been regularly meeting with local City Supervisors and other important city personnel to give them an opportunity to understand who we are, and what investments in the local economy we represent. BOMA produced an Impact Fact Sheet on ourselves late last year, which contained a number of important facts and figures substantiating our merits. Here are a few of them:

- BOMA's members have an assessed valuation of nearly \$13 billion in SF, and paid property taxes of more than \$147 million in 2000.
- In 2000, BOMA members spent nearly \$1 billion to operate and maintain its San Francisco buildings, which provided good-paying jobs for many workers totalling an annual payroll of almost \$257 million.
- BOMA San Francisco's buildings house over 6,000 businesses who employ more than 244,000 people.
- BOMA's buildings make significant contributions to the city's parking fund by virtue of the city's 25% tax on parking, and to its transit system through support and funding of the Transportation Management Association. www.tmasf.org

We are asking San Francisco's political and government department leaders to use our organization as a resource on all matters pertaining to commercial property ownership or management in the City. This year the GAPAC is chaired by **Larry Vollintine**, an attorney with the law firm of Farella, Braun + Martel. The committee has recently met with Supervisor **Gavin Newsom**, to hear about his ideas for reforming the public assistance programs dealing with the burgeoning homeless populations in the City. The GAPAC has also met with Supervisors **Aaron Peskin** (to oppose his idea of equal appeal rights for commercial tenants in conditional use permit appeals), with Supervisor **Jake McGoldrick** (to express our concerns for the neighborhood planning process that seems to tear up the city's overall general plan), with Supervisor **Mark Leno** (to express our concerns about the viability of his parking revenue control ordinance), and with Supervisor **Leland Yee** (to express our concerns about the registering of permit expeditors, and the need to re-classify many of the city's business services buildings to office, with the payment of all fees). The GAPAC has also met with Supervisor **Sophie Maxwell** (to express our support for the expansion of the Potrero power plant by Mirant Corp, which BOMA believes is necessary to guarantee adequate power supplies to the city, and is the only way to allow the closure of the polluting Hunter's Point power plant) and with Supervisor **Tony Hall** (to applaud him for his initiatives to improving the quality of life in San Francisco, including his proposal to ban sleeping on public sidewalks, in city parks, etc.) BOMA's GAPAC and PAC will be scheduling meetings with Supervisors Gerardo Sandoval, Matt Gonzalez, and Tom Ammiano in the near future.

BOMA Active in San Francisco's Small Business Network

BOMA's GAPAC has also established a strong relationship with the city's small business community through our participation and support of the Small Business Network. The SBN is an umbrella organization representing 17 local

small business organizations such as the Hispanic and Black Chambers of Commerce, the AIA, the Council of District Merchants, and others. Currently, our delegates to this body include **Sarah MacIntyre** (MMI Realty), **Frank Arteaga** (CA Dept. of General Services) and **Ken Cleaveland** of BOMA. The importance of the involvement of BOMA with the Small Business Network can not be underestimated. Considerations surrounding property rights are always a touchy subject in a town where renters outnumber owners 2 – 1, so building alliances with organizations, especially small business ones, is critical for BOMA to advance its legislative concerns before the Board of Supervisors or its City Department Directors. BOMA is also fortunate to have **Tim Falvey** (Hanford-Freund) volunteering as a delegate to the SBN for the local Realtors Association, as Tim is also a BOMA member. The four key priorities for the SBN in 2002 are:

- #1 - Quality of Life (including homelessness, clean streets, etc.)
- #2 - Building better relationships with City Hall
- #3 - Property Owners' Rights
- #4 - Advocating for small business before local, state, and federal agencies

Upcoming Brown Bags You Need to Attend:

- March 21 (12 noon @ 1660 Mission Street, 2nd Floor), the Dept. of Building Inspection will host a brown bag lunch meeting featuring Laurence Kornfield (Chief Building Inspector) and David Shue, of the state contractor's licensing board to discuss the general contractor rules regarding work hours, noise, parking, deliveries, safety, and licenses needed in San Francisco.

- April 10 (12 noon at 220 Montgomery Street), the BOMA Recycling Task Force will be presenting a brown bag lunch meeting focusing on the Environmental Policies of the DPW. Representatives of the city will tell you the rules and the fines for not appropriately maintaining your building's outdoor trash containers.

- April 11 (12 noon at the BOMA office), the BOMA Building Codes Task Force will be presenting a brown bag lunch meeting on Window Cleaning Regulations in California, featuring Steve Wynn, a certified safety inspector and tester of window cleaning equipment.

- April 18 (12 noon @ 1660 Mission Street, 2nd Floor), the Dept. of Building Inspection will host a brown bag lunch meeting featuring representatives from the disabled community and DBI staff to discuss the disabled access requirements for commercial office buildings (Call Laurence Kornfield to register for DBI brown bags at 415-558-6205.)

Newsracks: Still No Progress on Cleaning Up a City Disgrace

For more than two years, the City has been stymied in its efforts to clean up the thousands of newsracks that proliferate on every corner and line up in disarray on every block of the City's downtown streets. Although a city ordinance approving a pedestal newsrack program was passed in 1998, a coalition of the city's newspapers have succeeded in holding up the program's implementation by filing a lawsuit challenging the city's authority to mandate use of a central housing system for their papers (a pedestal multi-paper rack versus each publication having its own news box). The results of this situation are in your face every day. Papers pollute the streets and sidewalks with impunity, and racks are not kept in good working condition, or clean of graffiti or garbage use, creating an unpleasant eyesore, and a crowded sidewalk for the city's pedestrians. WHEN WILL IT BE SOLVED? BOMA has inaugurated a task force to seek better enforcement of the city's rules regarding newsracks, and welcomes participants. Contact Ken Cleaveland kenc@boma.com to sign up. The BOMA office will also be happy to fax you a summary of the current newsrack guidelines at your request.

DBI News to Use

BOMA is fortunate to have a close relationship with the City's Department of Building Inspection. Not only has the Director Frank Chiu always requested BOMA participation on any issue impacting commercial buildings, but the entire senior staff at the Department has made itself available to meet with BOMA to discuss any issue or concern. Here are some of the more recent items of interest to commercial buildings:

- Recently, the Department issued a draft bulletin - AB 056 - which would create a new permit for disabled access compliance for the common areas of a building. This bulletin, when finalized, will allow buildings to pull a permit to certify their common areas for disabled access compliance once every code cycle to reduce the burden on the Department and owner for repeated submittals and reviews of multiple sets of identical documents. For a copy of this proposed bulletin, contact the BOMA office, or DBI's Laurence Kornfield, at 415-558-6205. Your input would be very important!

- the Department just released the construction valuation threshold for unreasonable hardship for 2002. It is **\$95,815.11**.

- the Department will be seeking input on the procedures it should follow with regards to the enforcement of the sprinkler retrofit ordinance, which takes effect in February, 2006. BOMA members who may have difficulties in retrofitting all floors of their buildings by the due date are encouraged to contact the BOMA office to be a part of this new working group with the Department.

- the Department has recently stepped up its enforcement of both the 1993 ordinance requiring that boiler work be done by specially licensed plumbers, and the 1998 state law (603.4.11) requiring a listed backflow protection assembly be installed if a boiler does not have double walls. Several BOMA members have been cited for this recently, so it is wise that all members with single wall boilers be aware of their responsibilities to have this backflow device installed immediately. Call the BOMA office for a copy of the Boiler/Backflow protection requirements.

- Are you BOP-ing? DBI's Zan Turner can help you do it! At a recent BOMA brown bag meeting, Zan discussed the steps building owners need to take to enable them to have their properties privately inspected and tagged after an earthquake or other potential structural disaster. Over 50 buildings are already certified and ready to go. Here's what they had to do:

- a. They had their buildings evaluated by registered structural engineers
- b. They selected a team (structural, elevator, life safety) to be used to do the inspection work
- c. They assembled the plan's components, including all drawings of the building
- d. They created an inspection plan using the ATC 20 detailed evaluation standards
- e. They submitted the plan to the DBI, which submitted it to the Structural Engineer's Disaster Emergency Services Committee for review
- f. Once approved, they were given placards to use for each entrance designating the building as a BOP participant
- g. They must apply for an annual renewal, which usually entails submitting a one page update listing any changes to the structure.
- h. They do not have to pay a fee for participating in this City program, beyond the engineer's costs.

For additional information about having your building pre-certified for immediate inspection after an earthquake, call **Zan Turner at 415-558-6104**.

BOMA Energy News Update

BOMA California filed a petition with the California Public Utilities Commission February 13th calling on the commissioners to honor the direct access contracts and rights of extension signed by BOMA buildings prior to September 20, 2001, when the PUC forbade all new such contracts. Although Enron has gone bankrupt, this action should not nullify the ability for these direct access contracts to be assigned to another energy provider, and to be extended within the guidelines of the contract. This action was carried for BOMA by Dian Grueneich and Clyde Murley, attorneys with **Grueneich Resource Advocates** of San Francisco. A decision is pending.

Also before the PUC is a filing by **Energy Solutions**, asking the commission to approve and fund a partnership of Energy Solutions and BOMA's Bay Area Energy Committee (representing member properties in San Francisco, East Bay, and Silicon Valley) to do energy audits and prepare investment grade analyses for possible upgrades to selected BOMA members, especially smaller building members who haven't yet fully upgraded their lighting and HVAC systems. A decision on this funding request is also pending.

Of possible interest to your tenants is a program being funded through the City called **Power Savers**. This program was established to help small businesses reduce power consumption through lighting retrofits. Here's how it works: First, you authorize the Dept. of the Environment to allow a specialist to do a lighting fixture audit. Second, a one hour lighting audit is conducted which includes giving you a plan of work, specific energy savings and cost estimates for labor and materials, a projected rate of payback, and offers you a financing plan. Lighting retrofits cost about \$1500 – 3,000 for most small retail spaces, with the city covering 20% of the costs. Power Boosters will also supervise the retrofit work and inspect it for quality control. Third, you review the scope of work with your lighting subcontractor. Fourth, the work is performed, typically in one day. Fifth, the quality control compliance and inspection work is done by the Dept. of the Environment. To learn more about this opportunity for your tenants' businesses, call **Hank Ryan at 415-296-1155**.

Bicycle Parking & Monitoring: How to keep track of bikes in your Garages

The Transportation Management Association of San Francisco recently released an excellent "Bicycle Parking Registration Form" to be used to track bicycle parking owners in your building. They also published a notice you can put up to cyclists informing them of the new registration requirements. Because of the new security precautions we all must face, it is advisable to have a record on file of all regular cyclists using your garages. Call the BOMA office for a copy, or the knowledgeable Executive Director of the TMA, **Kim Martinson**, at **415-392-0210**.