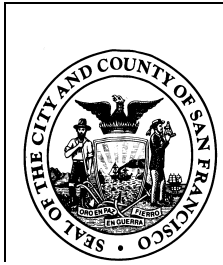


*Special Meeting*  
*of the*  
*Building Inspection Commission*  
*December 11, 2024*  
*Agenda Item 8*



**BUILDING INSPECTION COMMISSION (BIC)  
Department of Building Inspection (DBI)**

**REGULAR MEETING**

**Wednesday, November 20, 2024 at 9:30 a.m.**

**City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416**

Watch SF Cable Channel 78/Watch [www.sfgovtv.org](http://www.sfgovtv.org)

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**PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2660 224 2831**

## **DRAFT MINUTES**

### **1. Call to Order and Roll Call.**

The regular meeting of the Building Inspection Commission (BIC) was called to order at 9:35 a.m., and a quorum was certified.

#### **COMMISSION MEMBERS PRESENT:**

Alysabeth Alexander-Tut, **President**

Earl Shaddix, **Vice President**

Evita Chavez, **Commissioner**

Catherine Meng, **Commissioner**

Bianca Neumann, **Commissioner**

Kavin Williams, **Commissioner**

Sonya Harris, **Secretary**

Monique Mustapha, **Assistant Secretary**

#### **D.B.I. REPRESENTATIVES:**

Patrick O’Riordan, **Director**

Christine Gasparac, **Assistant Director**

Matthew Greene, **Deputy Director, Inspection Services**

Neville Pereira, **Deputy Director, Plan Review Services**

Alex Koskinen, **Deputy Director, Administrative Services**

Tate Hanna, **Legislative & Public Affairs Manager**

#### **CITY ATTORNEY REPRESENTATIVE:**

Robb Kapla, **Deputy City Attorney**

### **2. President’s opening remarks.**

President Alexander-Tut said she would like to recognize the rainy season would bring an uptick in phone calls and complaints regarding heat and leaks, so as a reminder to the public to call 311 to

report issues. This was a shortened meeting to focus on legislation to allow for an expanded Abatement Appeals Board meeting and as a reminder gifts for the 2024 season have been restricted.

**3. General Public Comment: The BIC will take public comment on matters within the Commission's jurisdiction that are not part of this agenda.**

Mr. Jerry Dratler gave a presentation and made the following points; Mr. Dratler said he would be speaking about a unique project at Orange Alley which he said was a three-unit building that had no recorded DBI field inspections or special inspections and there were thirty complaints for the property that were being suppressed, he said one owner of a unit at the Orange Alley property did not complete a Form 700 properly. Mr. Dratler showed a copy of a Certificate of Final Completion and Occupancy for 95 Orange Alley with the owner's name and then a Notice of Completion with the inspector and owners names listed. Mr. Dratler showed a mortgage deed for unit 201 of the Orange Alley property and compared it to the Form 700 portion of reporting rental income. He said how was it possible for the inspector listed as the owner to acquire and dispose of the property in the same year. Mission Local published an article showing the relationships between DBI employees and the inspector of the property. Mr. Dratler said who suppressed the complaints and why, then discussed more points about permits for 95 Orange Alley.

**4. Discussion and possible action regarding Board of Supervisors Ordinance (File No. 240982) amending the Building, Administrative, and Public Work Codes to remove the local requirement for existing buildings with a place of public accommodation to have all primary entries and paths of travel into the building accessible to persons with disabilities or to receive a City determination of equivalent facilitation, technical infeasibility, or unreasonable hardship, in addition to other requirements.**

Supervisor Raphael Mandelman made the following points about File No. 240982:

- This Ordinance would sunset enforcement of the Accessible Business Entrance (ABE) program
- It would formalize and require reporting by the Office of Small Business, Mayor's Office of Disability, and Department of Building Inspection on a new collaborative initiative to be called Beyond the Front Door.
- To encourage and support small business and property owners to get in to compliance with ADA and other accessibility requirements at the front door and it would waive annual public right-of-way encroachment fees for ADA and other accessibility requirements.
- There had been many extensions to the program, Katy Tang authored a six-month extension ending January 1, 2019 and subsequent extensions to date. Former Supervisor Norman Yee pushed deadlines to September 1, 2020 as did Mayor Breed pushed the deadlines to June 30, 2022 and Supervisor Mandelman authored two additional extensions first to June 30<sup>th</sup> and the next extension until December 31, 2024 for the checklist.
- When the BIC heard the last extension May 15, 2024 it was heard that the Commission was not inclined to extend the program enforcement further.
- One option was to double down on the enforcement of the ABE program as it was originally passed. This option would require allocating DBI and other city resources to enforcement at a time when the City budget was under increasing pressure.

- Supervisor Mandelman’s office heard from dozens of businesses that stated they had run into obstacles that would ultimately put them out of business and going after small businesses like those would not be a good look for San Francisco.
- Conversations with the disability community stated although access at the front door was critically important it was not the only barrier and not the most important barrier to access local businesses.
- After months of discussion with stakeholders described in the concept paper Partnership to Drive Accessibility and Inclusivity Best Practices in Local Businesses it recommended to sunset the enforcement requirement of the ABE program and require reporting on progress on the front door. DBI committed to hiring a certified access specialist inspector who would perform a higher level of inspections and work with the Office of Small Business (OSB) to create materials to better inform business owners about their obligations.
- This legislation would not relieve property owners and businesses from their obligations to comply with federal and state disability laws. The intent behind this legislation was to remove the additional local requirement that went above and beyond the state and federal disability laws which enforcement would present a burden on departments that were already pursuing a number of priorities and were facing budget cuts.

Acting Director of the Mayor’s Office on Disability Deborah Kaplan said her office consulted with the community and said many people with disabilities were concerned that the ABE program did not address many different kinds of access issues other than mobility that required architectural modifications but also expressed strong desire to support small businesses while many were still recovering from the economic fallout caused by the pandemic throughout the city. One of the challenges was the impact on the small businesses that were tenants in buildings that did not have accessible front entrances and under the lease it was the business owner that would bear the cost rather than the building owner and state law prevented lease modifications of that nature. The community was concerned that compliance should not harm small businesses.

Director of the Office of Small Business Katy Tang said that this legislation did not absolve the business owners or building owners from responsibility under the federal ADA or any other state requirement. Permit specialist who work with small businesses would continue to at the front end remind business owners of their responsibilities and the office would continue outreach and information sharing however we were at an interesting stage especially given the state of the economy a lot of those businesses were struggling to stay open.

Ms. Tang said that on merchant walks gathering information business owners said they would rather close than be forced to make improvements at a cost that they were not able to meet at the time. There was a host of accessibility accommodations the public needed to deal with and although this legislation would sunset part of the enforcement the department would continue to address accessibility from all perspectives.

Public Comment:

- Ms. Serena Calhoun a local architect said although her business benefited from the ABE program she stated her support to sunset it because it had been extremely difficulty to navigate even with her more than twenty years of experience for example a lot of clients had to pay thousands of dollars in fees to have their addresses recognized and submit documents that were dated in the early 1900s for proof of address. She said the city database was not correct at the start of the program. She said the program was broken and it had always been a challenge.

- Mr. Bob Noelke a member of the Board of Small Property Owners said a lot of the businesses were five hundred square feet and had been running before the earthquake in 1989 and they were stunned at the process and the expense and a lot had gone out of business.
- Mr. Arnie Lerner a member of the Access Appeals Commission (AAC) and Code Advisory Committee (CAC) in the Disability Advocate seat said the program was created as a result of drive by lawsuits. He personally performed 197 ABE surveys and the majority were property owners, and it was his understanding that they were taking responsibility to fix the issue. He said for the tenants there were grants available through the AAC. There were thousands of responses that said the requirement was not readily achievable but none of those were forwarded to the AAC and if they had been the AAC would have found an affordable solution as they had done so in the past for others.
- Mr. Lerner said the credibility of DBI was at stake and if the ordinance was not enforced it would undermine the credibility of other enforced programs such as soft story upgrades and non-ductile concrete upgrades.
- Mr. Henry Karnilowicz President of the South of Market Business Association and member of the CAC said there were a lot of buildings that were deemed historic and it was near impossible to make accessible and other businesses were inside of a building on the second or third floors. He said some of those buildings had been around for hundreds of years and would the city start tearing them apart for accessibility. He said there was no other place in the country that had the ABE program.
- Mr. Walter Park said that San Francisco was a charter city and could exceed the California Code. He said there was a link on the DBI website that said any decision of a building department could be appealed to the AAC if it dealt with accessibility matters. He said the AAC used to meet monthly but after the pandemic the committee went seventeen months without meeting and there were no cases forwarded from DBI. He said there were at least four thousand cases that should have been forwarded to the AAC and the committee would have been able to find affordable solutions.
- Executive Director of the Japantown Community Benefit District Grace Horikiri said she would like the BIC to support the repeal of the ABE programs enforcement and the renovations of the area caused concern to the small businesses because of low foot traffic.
- William from Accessible San Francisco said so few voices from the community were being heard and the reason for the law was it was inadequate and if the enforcement was repealed it would go back to the state and federal rules. He said the ordinance was revolutionary to make the entrance accessible, there were so many businesses that were not simply because of one step. He said this committee previously told the supervisors they did not want any more enforcement delays, not a proposal that would end the program.

#### Commissioner's Questions and Comments:

Commissioner Shaddix asked what would the specialized inspectors position impact.

Legislative Affairs Manager Tate Hanna said the specialized inspector would work for DBI with its inspectors to help inform inspectors and be proactive outside of the ABE program on final inspections to inform if ABE requirements had been met or not to business owners.

Commissioner Shaddix said did DBI have any data on the violations specific to the Americans with Disabilities Act (ADA).

Mr. Hanna said DBI does not enforce the ADA.

Commissioner Shaddix said could it be explained about the AAC and what the barrier was to the ABE.

Mr. Hanna said there were about one thousand applicants for technical and feasibility hardship grants and of those to use the exemption was a multistep process and unfortunately most do not go through with it. A lot were stuck in the middle of the process, there was no box to check and then automatically referred to the AAC. Mr. Hanna said he would refer to Senior Inspector Tom Fessler the AAC secretary to follow up on future referrals.

President Alexander-Tut said at what point in the permit process was someone able to appeal to the AAC.

Commissioner Neumann said what was the burden of proof to reach infeasibility which could vary. She went on to describe the variances that would occur in applications.

Mr. Hanna said an applicant could appeal at any time during the process including the very beginning when told to comply however the hardships did vary and many considerations would be taken case by case.

Commissioner Neumann said at those moments depending on the case would be the burden of proof and referral to the AAC would be made.

Director O’Riordan said he could follow up with the data that pertained to referrals of ABE cases to the AAC.

Commissioners had extensive discussion on reasons to approve or disapprove the ordinance.

***Commissioner Neumann made a motion, seconded by Vice President Shaddix to recommend approval of Board of Supervisor Ordinance File No. 240982.***

**Secretary Harris Called for a Roll Call Vote:**

<b>President Alexander-Tut</b>	<b>Yes</b>
<b>Vice President Shaddix</b>	<b>Yes</b>
<b>Commissioner Chavez</b>	<b>No</b>
<b>Commissioner Meng</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Williams</b>	<b>No</b>

***The motion carried 4 to 2.***

**RESOLUTION NO. 052-24**

- 5. Discussion and possible action regarding Board of Supervisors Ordinance (File No. 241067) amending the Planning Code to allow tourist hotels and motels to be used for Interim Housing without thereby abandoning or discontinuing the hotel use classification under that Code; amending the Building Code to allow Interim Housing without thereby changing the underlying occupancy classification of the property, and amending Appendix P to remove restriction that emergency housing be located on land owned or leased by the City, in addition to other requirements.**

Legislative Affairs Manager Tate Hanna gave a presentation and made the following points:

- Background of Ordinance 57-16 enacted April 22, 2016 declared a shelter crisis in the City and County of San Francisco and Ordinance 60-19 affirmed that crisis and established a streamlined approval process for shelters.
- The existing law that would be changed was San Francisco Building Code Section 106A.2 which established actions that could be taken without a permit.
- Additionally, existing state law clarified temporary use of hotel or motel as a shelter did not result in the hotel being labeled as non-transient nor did it establish new tenancy for the residents.
- The proposed Ordinance would add to the list of uses without a permit and specify that a hotel or motel for interim housing did not constitute a change to the underlying occupancy classification.
- Code Advisory Committee (CAC) and Administrative and General Design & Disability Access Subcommittee met on November 13, 2024 and recommended approval.

There was no public comment.

*President Alexander-Tut made a motion, seconded by Commissioner Neumann to recommend approval of the Board of Supervisors Ordinance File No. 241067.*

**Secretary Harris Called for a Roll Call Vote:**

<b>President Alexander-Tut</b>	<b>Yes</b>
<b>Vice President Shaddix</b>	<b>Yes</b>
<b>Commissioner Chavez</b>	<b>Yes</b>
<b>Commissioner Meng</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Williams</b>	<b>Yes</b>

*The motion carried unanimously.*

## **RESOLUTION NO. 053-24**

### **6. Submitted Director’s Report.**

- a. Director’s Update [Director O’Riordan]**
- b. Update on major projects.**

Major projects are those with valuation of \$5 million or greater filed, issued, or completed.

- Major projects with permits filed.
  - 1 issued
  - \$5.5 million in valuation
  - 0 net units
- Major projects with permits issued.
  - 3 issued
  - \$66.8 million in valuation
  - 27 net units
- Major projects with Certificate of Occupancy

- 4 completed
- \$67.1 million in valuation
- 114 net units

**c. Update on proposed or recently enacted State or local legislation.**

- **File No. 241005:** Department sponsored ordinance that would adopt chapters 6 through 11 of the Existing California Building Code, those chapters had not been adopted by the city and this ordinance would rectify that and follow in path with state Fire Marshall.
- **File No. 240982:** Ordinance would reform and recast the Accessible Business Entrance program to focus on a more holistic form of accessibility and go beyond the front door. Sponsored by Supervisor Mandelman and introduced on October 8, 2024.
- **File No. 240845:** Amends the all-electric ordinance to allow gas infrastructure as long as it covered Energy Policy and Conservation Act (EPCA). Passed Board of Supervisors (BOS) on October 15, 2024 and was awaiting mayor signature.
- **File No. 240807:** Introduced by Supervisor Stefani, this Ordinance related to elevator requirement in R-1 and R-2 buildings below fifty feet. BIC reviewed and gave a positive recommendation on September 18, 2024 and passed the BOS on October 15, 2024 and was awaiting mayor signature.
- **File No. 240798:** Professionally prepared plans for change of use permit application, sponsored by the Mayor. Passed the BOS on October 8, 2024.

**d. Update on Inspection Services.**

Deputy Director of Inspection Services Matthew Greene presented the following Building Inspection Division Performance Measures for October 1, 2024 to October 31, 2024:

• Building Inspections Performed	5,739
• Complaints Received	503
• Complaint Response within 24-72 hours	495
• Complaints with 1st Notice of Violation sent	69
• Complaints Received & Abated without NOV	266
• Abated Complaints with Notice of Violations	53
• 2nd Notice of Violations Referred to Code Enforcement	35

Deputy Director of Inspection Services Matthew Greene presented the following Housing Inspection Division Performance Measures October 1, 2024 to October 31, 2024:

• Housing Inspections Performed	786
• Complaints Received	443
• Complaint Response within 24-72 hours	397
• Complaints with Notice of Violations issued	115
• Abated Complaints with NOVs	436
• # of Cases Sent to Director's Hearing	39
• Routine Inspections	54



Deputy Director of Inspection Services Matthew Greene presented the following Code Enforcement Services Performance Measures for October 1, 2024 to October 31, 2024:

• # Housing of Cases Sent to Director’s Hearing	84
• # Complaints of Order of Abatements Issues	10
• # Complaint of Cases Under Advisement	0
• # Complaints of Cases Abated	44
• Code Enforcement Inspections Performed	728
• # of Cases Referred to BIC-LC	0
• # of Case Referred to City Attorney	0

Deputy Director of Inspection Services Matthew Greene said Code Enforcement Outreach Programs are updated on a quarterly as follows for the 4<sup>th</sup> quarter:

• # Total people reached out to	47,193
• # Counseling cases	277
• # Community Program Participants	7,172
• # Cases Resolved	201

**e. Update on DBI’s finances.**

Deputy Director of Administration Alex Koskinen gave a presentation and made the following points:

Revenues:

- 25% of the fiscal year had elapsed
- 26% collected of the budget

Expenditures:

- Tracking on budget with primary expenditure of labor.

Permits:

- Total number of permits YTD is same as this period last year.
- YTD valuation was 52% higher than same period last year.

**7. Commissioner’s Questions and Matters.**

**a. Inquiries to Staff. At this time, Commissioners may make inquiries to staff regarding various documents, policies, practices, and procedures, which are of interest to the Commission.**

**b. Future Meetings/Agendas. At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Building Inspection Commission.**

Secretary Harris said the next meeting of the Building Inspection Commission would be a Special Meeting to be held on December 11, 2024 and the Regular Meeting of December 18, 2024 was canceled.

President Alexander-Tut said she would like an update on the Access Appeals Committee (AAC) and its appeals and an overview for the commission on the internal processes and notification process to members of the public who may access the AAC. President Alexander-Tut said she would like to have a draft of written policy from the Department for the BICs consideration on the Certified Access Specialized (CASp) inspector.

Since the issue of access is important to the Commission, if someone calls 311 because an entrance isn't accessible and the department can't enforce it. Commissioner Meng thinks it would be good to have a conversation about what to do with those complaints: Do they get funneled somewhere or how does DBI address those complaints even though the department does not enforce the Americans with Disabilities Act (ADA).

Commissioner Chavez asked if the BIC could receive a report on other programs that may be reaching a sunset date or legislation of ongoing programs.

Director O'Riordan said the soft-story program was a program that the department could give an update on.

Vice President Shaddix said he would be interested in an update on the falling windows report from the prior year's winter storms.

There was no public comment.

#### **8. Review and approval of the minutes of the Regular Meeting of October 16, 2024.**

*President Alexander-Tut made a motion, seconded by Commissioner Williams, to approve the meeting minutes of September 18, 2024.*

*The motion carried unanimously.*

There was no public comment.

#### **RESOLUTION NO. 054-24**

#### **9. Adjournment.**

*President Alexander-Tut made a motion, seconded by Commissioner Williams to adjourn the meeting. The meeting was adjourned in honor of Secretary Harris' sister, Cassandra Harris-Patterson.*

*The motion carried unanimously.*

The meeting was adjourned at 11:29 a.m.

#### **RESOLUTION NO. BIC 055-24**

<b>SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS</b>	
A status of the Access Appeals Commission (AAC) appeals and maybe an overview for the Commissioners, both on the internal process to get appeals before the AAC and also DBI’s notification process to the members of the public who may access the AAC. – <i>President Alexander-Tut</i>	Page 9
If and when File No. 240982 passes, President Alexander-Tut would like to see a draft written policy from the Department for the BIC’s consideration on the CASp Inspector. – <i>President Alexander-Tut</i>	Page 9
Since the issue of access is important to the Commission, if someone calls 311 because an entrance isn’t accessible and the department can’t enforce it. Commissioner Meng thinks it would be good to have a conversation about what to do with those complaints: Do they get funneled somewhere or how does DBI address those complaints even though the department does not enforce the Americans with Disabilities Act (ADA) – <i>Commissioner Meng</i>	Page 9
Could the BIC receive a report on any additional legislative items or policies that may be coming up with an impending end date, and suddenly DBI may have thousands of NOV’s to issue. Commissioner Chavez stated that maybe the Commission could make some proactive changes in the interim. – <i>Commissioner Chavez</i>	Page 9
Compliance with the window upgrades as discussed last year could be an issue with the storms approaching. – <i>Commissioner Shaddix</i>	Page 9

Respectfully submitted,

*Monique Mustapha*  
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 Monique Mustapha, Assistant BIC Secretary

*Sonya Harris*  
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 Edited By: Sonya Harris, BIC Secretary

## Mr. Jerry Dratler's Public Comment

Ms. Harris,

My 150 word public comment for the November 2024 minutes is below.

Mr. Dratler's public comment discussed the construction of three condo units at 95 Orange Aly. The building was constructed without a single DBI field inspection or independent special inspection. Unit 201 of 95 Orange Aly is owned by DBI Inspector Mark Walls, and the last DBI condo inspection of 95 Orange Aly was in 2008.

In May of 2024 DBI Deputy Director Mathew Greene approved a \$1 administrative permit to finalize Mr. Walls' ten-year-old bathroom remodel permit. Inspector Brett Howard expired the 2014-bathroom remodel permit and finalized the 2024 administrative permit on August 23,2024.

Over the last three years Mr. Walls filed Form 700s with the Ethics Commission where he claimed rental income of between \$0 and \$499 for the 1,610 square feet condo. Mr. Walls also reported that he acquired and disposed of condo unit 201 in each of the last three years