

-----Original Message-----

From: Christopher Bowman

Sent: Saturday, August 01, 2015 6:53 AM

To: Doe, Publications (REG)

Subject: Request for a Reconsideration of the Ballot Simplification Committee's Approved Digest on the Surplus City Property Ordinance

Dear Barbara:

Please forward my Request for a Reconsideration of the Ballot Simplification Committee's Approved Digest of the Surplus City Property Ordinance to Chairwoman Packard and to Committee members Unruh, Jorgensen, Fasick, and Fraps. (Please see attached.)

Please note that I've sent this to your email at 6:53 a.m. on Saturday, August 1st, 5 hours and 7 minutes before the deadline to do so.

I have included an edited version as well as a clean version of how I believe the final digest should read, to include underlining and bolding in yellow additions, and strike-outs for deletions.

Some of the changes are designed for an easier read, others are for clarification purposes, one is to create parallel language in "The Way It is Now" and "The Proposal", and the rest of the changes attempt to incorporate the language used in the current Ordinance and the proposed Ordinance without, hopefully, violating your charge to create a simplified digest which can be comprehended by voters with an 8th grade education.

I will go over each change in the order in which they appear in the approved digest, to include my reasons for the change.

1. The Way It is Now: Paragraph one, line three. The addition of "in San Francisco" modifies the digest's use of "elsewhere". Since the City owns property outside of San Francisco at the San Bruno Jail, SFO, and Hetch Hetchy lands including Sunol and Moccasin, it is important that we specify that the affordable housing will be built on properties "elsewhere in San Francisco", not outside the City.

2. Paragraph one, lines three through five. The proposed edit parallels the language used in the first bullet point under the Proposal, and reflects the wording used on Page 9 of 11 of the current Surplus City Property Ordinance in SEC. 23A.10. BOARD OF SUPERVISORS REVIEW AND CRITERIA sub paragraphs (I) and (iii) which reads:

". . . Surplus and Underutilized Property shall be used in the following order of priority:

"(i) First, for the development of affordable housing for people who are Homeless and persons earning less than 20% of the Area Media Income. . . and

"(iii) Third, for the development of affordable housing for persons earning no more than 60% of the Area Median Income . . ."

Please note, as I said at the hearing yesterday, that the current ordinance speaks to "people" or "persons", not to "households". Additionally, the phrase used in the Approved Digest of "housing that is affordable to households" is awkward and wordy.

3. Paragraph two, line one, the reordering of the sentence to read: "Every Year, City departments are required to identify surplus property" rather than "City departments are required to annually identify surplus property", is preferable for two reasons. First, "annually" may not be clear to voters with an 8th grade education, and second, the use of "annually" creates a split infinitive of "to identify", and its removal corrects that problem.

4. Paragraph two, lines one through three. The second sentence in the approved digest is a run-on sentence and needs to be divided into two sentences. As written, the word "which" could refer to either the "City" or to the "Mayor's Office of Housing and Community Development". The term "The City transfers the surplus property" is awkward. Additionally, it is important to use the acronym of (MOHCD), and then use it again for simplification purposes.

5. Paragraph two, lines six, the proposed language ". . . is exempt from the City's disposition requirements" is a bit clearer than the approved digest's, ". . . is exempt form the sale requirements.". "Sale requirements" are not a term of art used anywhere in the Ordinance, nor does it describe whose "sale requirements" we are talking about.

6. The Proposal, second bullet point. The text as written in the approved digest is inadequate, doesn't track the language in the proposed Ordinance, and is stilted. Additionally, notwithstanding what the representative of the MOHCD testified to before the BSC yesterday, the term "market-rate housing" is not to be found anywhere in either the current or the proposed Ordinance. The precise language in the proposed Ordinance is found on Page 15, SEC. 23A.8. DEVELOPMENT OF PROPERTY, paragraph (b) and reads: ". . . for sites with development capacity of 200 or more units as determined by the Executive Director (of MOHCD), the Executive Director may propose to use the property for a mixed-income housing project, including Middle Income Housing. . ." "Middle Income Housing" is defined on Page 8 of the proposed ordinance under SEC. 23A.4. DEFINITIONS., ". . . shall mean housing that is affordable to households earning up to 150% of Area Median Income".

7. The Proposal, fourth bullet point. As written, the approved digest is off the mark and misleading. I would refer you to the relevant text in the proposed Ordinance, SEC. 23A.6. COMPILATION OF INFORMATION BY ADMINISTRATOR, paragraph (d) on Page 12, which reads: "For a period of 120 days following the public hearing held under subsection (c) above, the City shall not initiative a request for bids or proposals or enter into contracts designed to facilitate the sale of Property (including brokerage and appraisal contracts), that the Board (of Supervisors) intends to transfer to MOHCD for any purpose other than the development of Affordable Housing, without the prior approval of the Board of Supervisors."

The section is now well written, but it is clear that it's not talking about City departments, but the City entering into contracts, and that it is not the City, but the Board of Supervisors that intends to transfer the property to MOHCD to develop affordable housing. As written, the approved digest suggests that the 120 days is designed for the Board of Supervisors to approve a contract for the sale, while in reality, the 120 days is designed to give the Board enough time to enable the transfer of the property to MOHCD.

8. The Proposal, fifth bullet point. The BCS came close and helped clarify the affordability levels, but didn't completely track the text of the proposed Ordinance. The text of SEC. 23A.8. DEVELOPMENT OF PROPERTY, paragraph (d), on Page 18 reads: "For any Property that is not transferred to MOHCD under this Chapter 233A but that the City sells for the development of 10 or more residential units, not less than 33% of the residential units developed on the property must be Affordable, and (1) for any rental project, not less than 15% of the units affordable to households earning 55% of the Area Median Income, and for any ownership project, not less than 15% of the units affordable to households earning 90% of the Area Median Income . . ." The approved digests cites "affordable to people" twice, while the

text of the proposed ordinance states "affordable to households" twice. Again, the use of people, persons, and households are not interchangeable, and the City Attorney's office doesn't choose its terms or words by happenstance. Words have distinct meaning. I've reworked the bullet point to reflect the provisions of the proposed ordinance, in that we are talking about "rental" projects when talking about 15% of the units affordable to households earning 55% of the AMI (and another 18% of the units affordable to households earning as much as 120% of the AMI. As I've edited, its short and precise, while you might also add the phrase regarding "ownership" projects where "not less than 15% of the units be affordable to households earning 90% of the Area Median Income and another 18% of the units be affordable to households earning 120% of the AMI. Your call on this, but as currently written, it is inadequate.

9. The Proposal, seventh bullet point. The provisions here actually parallel those in bullet point 4. I refer you to SEC. 23A.10. CITY POLICY REGARDING THE USE OF PUBLIC LANDS FOR AFFORDABLE HOUSING, paragraph (a), on Page 19, which reads: "In furtherance of the State Surplus Property Statute, the City shall ask all local agencies that own real property within the City and County of San Francisco (including the Education Districts, the Bay Area Rapid Transit District, and other local agencies) and that intend to dispose of real property located in the City consisting of one-quarter acre or larger, to give the Executive Director (MOHCD) advance notice of the proposed disposition together with an opportunity to negotiate for the acquisition of such real property for a period of not less than 120 days." I've edited the bullet point to reflect the 120 day requirement, which was omitted in the approved digest.

10. The Proposal, last paragraph. I've inserted the word "other" into the text of the approved digest, to read ". . . waive the requirements of this law for other public purposes. . ." in lieu of ". . . waive the requirements of this law for public purposes. . ." My proposed language tracks to text of SEC. 23A.12. WAIVER: AMENDMENT., on Page 24, which reads: "The Board of Supervisors may by ordinance waive the provisions of this Chapter 23A, including those provisions adopted by the voters, as applied to any particular property in order to further the purposes of the Chapter or for other public purposes, including the delivery, creation or expansion of health care. . ." The key here is "for other public purposes".

11. A "YES" Vote means. I've substituted 120% to 150%, since that percentage is reflected both within the text of the proposed Ordinance as described in SEC. 23A.4 DEFINITIONS, and SEC. 23A.8. DEVELOPMENT OF PROPERTY, paragraph (b) which refers to the development of "Middle-Income" housing.

Hope my explanations are clear, make sense, and are helpful.

I look forward to attending your hearing next Thursday to answer any questions you might have with my proposals.

Sincerely,

Christopher L. Bowman

1 attachment as.

**Proposed Revisions to the Ballot Simplification Committee’s Approved Digest on the
Surplus City Property Ordinance as part of the Request for Reconsideration Process
By Christopher L. Bowman, Saturday, August 1, 2015**

The Way It is Now: San Francisco has a policy of using real property the City does not need (surplus property) to build affordable housing. If the property is not suitable for housing, it can be sold and the proceeds used to build affordable housing elsewhere in San Francisco. Under the City’s policy, the allowable uses of surplus property are restricted to building affordable housing ~~is housing that is affordable to households for a range of people from those who are homeless and those earning under 20% of the area media income to those~~ earning up to 60% of the area median income

Every year, City departments are required to ~~annually~~ identify surplus property— which ~~The the~~ City then transfers ~~the surplus property~~ to the Mayor’s Office of Housing and Community Development (MOHCD), ~~which then~~ The MOHCD will determine ~~determines~~ if the property is suitable for affordable housing. If so, the City solicits applications from nonprofit organizations serving the homeless to build affordable housing on the property. City property controlled by the Recreation and Parks Commission, the Port, the Airport, the Public Utilities Commission, and the Municipal Transportation Agency is exempt from the City’s sale disposition requirements.

The Proposal: Proposition ___ would:

- Expand the allowable uses of surplus property to include building affordable housing for a range of households from those with very low income (homeless and those earning under 20% of the area media income) to those with incomes up to 120% of the area median income;
- Allow the use of surplus property to build a mixed-income housing project, including housing for middle income households earning up to 150% of the area median income, if 200 or more units can be built on the site; In surplus property, developments with 200 or more units, allow mixed income projects that include affordable middle income and market rate housing;
- Expand the annual process for identifying surplus property with specific reporting dates, public hearings and oversight by the Board of Supervisors;
- Prohibit the City departments from entering into contracts relating to sell surplus property that the City is ~~considering developing for~~ Board of Supervisors intends to transfer to MOHCD to develop affordable housing for 120 days unless the Board of Supervisors approves the contract;
- Require that at least 33% of the residential units developed on surplus property sold by the City be affordable, and for any rental project, at least 15% of the units must be affordable to households earning 55% of the area median income. ~~On surplus property sold by the City, require that 33% or more of the total housing units created be affordable—15% affordable to people earning up to 55% of the area median income and 18%~~ of the units must be affordable to people households earning up to 120% of the area median income;
- Maintain exemptions for City property controlled by the Recreation and Parks Commission, the Port, the Airport, the Public Utilities Commission, and the Municipal Transportation Agency; and
- Make it City policy to ask all other local agencies, such as school districts, to first notify the City before selling property in San Francisco and give the City the opportunity over the period of 120 days to buy it for affordable housing .

Proposition ___ would allow the Board of Supervisors to waive the requirements of this law for other public purposes, such as creating facilities for health care, child care, education, open space, public safety, transit and infrastructure.

A “YES” Vote Means: If you vote “yes”, you want the City to expand the allowable uses of surplus property to include building affordable housing for a range of households from those who are homeless or those with very low income to those with incomes up to ~~120%~~ **150%** of the area median income.

A “NO” Vote Means: If you vote “no”, you do not want to make these changes.

**Clean Copy reflecting the Proposed Revisions to the Ballot Simplification Committee's
Approved Digest on the Surplus City Property Ordinance as part of the Appeals Process
By Christopher L. Bowman, Saturday, August 1, 2015**

The Way It is Now: San Francisco has a policy of using real property the City does not need (surplus property) to build affordable housing. If the property is not suitable for housing, it can be sold and the proceeds used to build affordable housing elsewhere in San Francisco. Under the City's policy, the allowable uses of surplus property are restricted to building affordable housing for a range of people from those who are homeless and those earning under 20% of the area media income to those earning up to 60% of the area median income

Every year, City departments are required to identify surplus property which the City then transfers to the Mayor's Office of Housing and Community Development (MOHCD). The MOHCD will determine if the property is suitable for affordable housing. If so, the City solicits applications from nonprofit organizations serving the homeless to build affordable housing on the property. City property controlled by the Recreation and Parks Commission, the Port, the Airport, the Public Utilities Commission, and the Municipal Transportation Agency is exempt from the City's disposition requirements.

The Proposal: Proposition __ would:

- Expand the allowable uses of surplus property to include building affordable housing for a range of households from those with very low income (homeless and those earning under 20% of the area media income) to those with incomes up to 120% of the area median income;
- Allow the use of surplus property to build a mixed-income housing project, including housing for middle income households earning up to 150% of the area median income, if 200 or more units can be built on the site;
- Expand the annual process for identifying surplus property with specific reporting dates, public hearings and oversight by the Board of Supervisors;
- Prohibit the City from entering into contracts to sell surplus property that the Board of Supervisors intends to transfer to MOHCD to develop affordable housing for 120 days unless the Board of Supervisors approves the contract;
- Require that at least 33% of the residential units developed on surplus property sold by the City be affordable, and for any rental project, at least 15% of the units must be affordable to households earning 55% of the area median income and 18% of the units must be affordable to households earning up to 120% of the area median income;
- Maintain exemptions for City property controlled by the Recreation and Parks Commission, the Port, the Airport, the Public Utilities Commission, and the Municipal Transportation Agency; and
- Make it City policy to ask all other local agencies, such as school districts, to first notify the City before selling property in San Francisco and give the City the opportunity over the period of 120 days to buy it for affordable housing .

Proposition __ would allow the Board of Supervisors to waive the requirements of this law for other public purposes, such as creating facilities for health care, child care, education, open space, public safety, transit and infrastructure.

A "YES" Vote Means: If you vote "yes", you want the City to expand the allowable uses of surplus property to include building affordable housing for a range of households from those who are homeless or those with very low income to those with incomes up to 150% of the area median income.

A "NO" Vote Means: If you vote "no", you do not want to make these changes.