

## LEGISLATIVE SLEIGHT OF HAND

By Ken Perry

Just when members of the San Francisco business community think nothing else could be added to the burdensome statutes and regulations placed upon them by local government, the San Francisco Board of Supervisors pulls another albatross out of its hat.

With un-Solomon-like wisdom, the Board of Supervisors recently approved an ordinance making all “conditional use” building permits issued to commercial property owners subject to appeal before the Board. Aside from undercutting the authority of the San Francisco Planning Commission, which usually maintains purview over such matters, the Board has decided that the appeal process can be triggered by the signature of just five supervisors acting at the behest of *any* residential or commercial tenant in the City – not those within the surrounding neighborhood.

This fundamentally changes the rules by which City government operates, invalidating guidelines that previously allowed only property owners the right to appeal Planning Commission decisions and granting equivalent rights to a group that has no legitimate basis for having them: tenants.

Existing laws require the City Planning Commission approve a conditional use permit before any property owner structurally alters his or her property. In turn, property owners who apply for such a permit must prominently display their application in the area where the remodeling is planned and must notify all property owners within 300 feet of the project by mail.

Until the Board of Supervisors’ recent intervention in the regulatory process, if a nearby owner or tenant objected to construction plans in their neighborhood, they could appear before the Planning Commission and state their case for not issuing a conditional use permit. Once the Planning Commission had granted a permit, however, only nearby property owners were permitted to protest the decision by petitioning the Board of Permit Appeals (to revoke the permit).

In most other cities across the country, this is called due process. Yet, to the Board of Supervisors, this course of action didn’t extend far enough. Regrettably, from a practical standpoint, their efforts will hurt the local economy.

Broadening a commercial tenant's existing appeal rights adversely impacts the local economy by enabling neighboring businesses to use the legislative process to prevent new, competing businesses from coming online. San Francisco is a city in which the regulatory process makes it difficult enough to conduct commerce. By providing commercial tenants new appeal rights, the Board of Supervisors opens the door to add further cost and delay to the creation and expansion of new jobs.

Consider, too, that tenants have far less of a financial investment at stake than property owners, yet they are afforded the same rights. And while commercial property owners must adhere to the decisions ultimately made, tenants can ultimately leave to new environs. Lastly, the Board might have granted rights to a number of tenants who reside outside the City limits and are not registered to vote here.

The local community would do well to join together to overturn the Board's misguided decision, otherwise witness the inevitable erosion of a free marketplace in San Francisco resulting from yet another incursion on their rights.

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