



Berkeley City Council

ACTION CALENDAR
September 21, 2010

To: Honorable Mayor and Members of the City Council

From: Councilmember Laurie Capitelli
Councilmember Jesse Arreguin

Subject: Phase Two of the Soft-Story Retrofit Program and Enforcement of Phase One

RECOMMENDATION

Request that the City Manager 1. Develop an ordinance requiring owners of soft story multi-unit residential buildings to retrofit their buildings within four years of adoption, including appropriate enforcement and recommendations for possible incentives and/or financing opportunities (see below); 2. Review the standards to which buildings must be retrofitted; 3. Solicit input from the Rent Stabilization Board in conjunction with the 4 X 4 Committee, Housing Advisory Commission, Building and Safety, Disaster and Fire Safety Commission and community stakeholders; and 4. Immediately issue citations and fines to owners of soft-story multi-unit residential buildings that have not complied with BMC 19.39 requiring an engineering report for designated soft-story buildings.

FINANCIAL IMPLICATIONS

Staff time to develop ordinance. Significant staff time to implement ordinance for four years. Possible revenue from fines. Possible loss of revenue from permit fee waivers, transfer tax rebates.

BACKGROUND

The Soft Story Ordinance, BMC 19.39, was adopted by the City Council in December of 2005. It requires owners of staff-identified potential soft-story buildings to do an engineer's report to evaluate their buildings or demonstrate they are not a soft-story structure. If found to be a soft-story building, owners were then required to 1. Post in a prominent location the fact that the building is officially a soft-story building and 2. Provide notice to all existing and new tenants that the building is soft-story. As of spring 2010, 269 buildings have been identified. 164 (61%) are in compliance (or are in process), 66 (24.5%) have had the retrofit work done (or are in process), and 39 (14.5%) are fully out of compliance.

The requested ordinance, requiring retrofit of these buildings, would be the next step in increasing the seismic capacity of the identified structures and would help increase the occupants' safety in the event of an earthquake. The ordinance will include:

- Limited time frame for compliance. 4 years from time of adoption, with a one year grace period for those who can prove hardship (as determined by staff).
- The same penalties for non-compliance as outlined in BMC 19.39.

Since financing for these projects may be problematic for some if not many of the building owners, and because compliance is the City's ultimate goal, we ask staff to develop some financial incentives and opportunities. These could include:

- Transfer tax seismic rebate for multi-unit residential buildings, not to exceed .5% of the subsequent sale price, if the work is/has been completed within the timeframe of the ordinance.
- Permit fees refunded at future point of sale
- Permit fee waivers for work done under the ordinance
- A revolving loan fund, perhaps through a Joint Powers Authority with neighboring jurisdictions who are also requiring soft-story retrofits, or through some other funding source.
- Point of sale compliance

To inform the discussion regarding required financing, we suggest the 4 X 4 committee request that the RSB staff to do a study of the properties not yet in compliance to determine:

- Which properties have been sold within the past five years
- Which properties have a majority of tenants who are paying historically low rents or those that have not been subject to vacancy decontrol.

Council also suggests that those property owners who have completed the retrofits before the adoption of the proposed ordinance be eligible for the seismic rebate on point of sale if adopted.

The 4 X 4 Committee should explore an appropriate formula for pass through to tenants and refer to RSB staff

In spring of this year notices were sent to those out of compliance with current law, outlining their obligation, demanding compliance and advising them of possible citation and fines. Staff should immediately follow through on those notices.

CONTACT PERSON

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