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**Board President David Chiu Joins Broad Coalition to Propose Path to
Legalization for Existing In-Law Units Constructed Without Permits**

*Legislation Aims to Properly Count City's Supply of Affordable Housing; Ensure Safe and Habitable
Building Conditions; and Provide Clarity and Transparency to Tenants and Homeowners*

San Francisco, CA—Board of Supervisors President David Chiu today joined a diverse coalition of tenants, property owners, housing organizations and City departments to announce a legislative proposal to allow existing in-law units that were built without permits to apply for legal status with the City.

"As housing costs have skyrocketed and working families are struggling, we must act quickly to address San Francisco's affordability crisis," said Board President David Chiu. "That's why I'm introducing legislation that will create a pathway to legalize tens of thousands of in-law units, which will help tenants live in safe, affordable housing and homeowners have a good, long-term economic investment."

In-law units, also known as secondary units or accessory dwelling units, are typically additional units added onto existing housing by converting attics, basements, and garages into new places to live. They originally came about during World War II to house a dramatic influx of workers moving into San Francisco. Because the original units were built without permits and post-war units were built under more restrictive zoning laws, many in-laws units today are likely illegal and violate the Building and Planning Codes.

The estimated 30,000 in-law units in San Francisco serve as a vital source of affordable housing for the City's lower income families, students and seniors while providing homeowners with supplementary income. A recent door-to-door study of in-law units in the Excelsior conducted by the Asian Law Caucus found that more than half of the tenants in the neighborhood live in secondary units in single-family homes. They are overwhelmingly families with children, seniors, immigrants and very low and extremely low-income households. They pay \$1,250 monthly rent for a 2-bedroom in-law unit compared to the overall median rent in the city of nearly \$3,500.

"Our study has shown that second units play a critical role in the city's residential landscape," said Omar Calimbas of Asian Americans Advancing Justice/Asian Law Caucus. "Various walks of life, from struggling homeowners to low-income tenant families, have relied on this hidden form of housing for decades. The time is now to recognize and protect these diverse communities and their homes."

"By the tens of thousands, this inherently affordable, environmentally desirable type of housing has been built in neighborhoods across the City," said Tim Colen of the San Francisco Housing Action Coalition. "It's time to recognize that secondary units have remained in the shadows for far too long. It's in

everyone's interest that we finally adopt legislation that would make a deal among stakeholders regarding the rules that govern them. The San Francisco Housing Action Coalition supports the introduction of this legislation and looks forward to participating in the conversation for achieving a fair solution.”

"By creating a clear pathway to legalization, this legislation will help make currently illegal secondary units more available to help address our existing housing crisis," said Sarah Karlinsky of SPUR. This is an important step for the city to be taking."

The three goals of the new legislation are to 1) bring tens of thousands of housing units into the legal affordable housing stock; 2) protect tenants who have lived without tenant protections in units that may not be safe; and 3) help homeowners make a long-term investment in affordable housing.

Achieving the first goal will help preserve affordable housing currently at risk of elimination and reactivate vacant units that are kept off the housing market because of enforcement or fear of enforcement penalties. It will also help track housing needs and identify the neighborhoods that could use more resources like schools and public transit to accommodate density.

The legislation will ensure that tenants are living in safe building conditions that have life-safety systems in cases of emergencies like fires. It protects the rent control status of in-law units, prohibits cost pass-throughs for major capital improvements and condominium conversions, and requires relocation assistance to tenants during construction.

Finally, the legislation helps homeowners make a long-term investment in affordable housing by reducing planning and zoning obstacles to legalization, creating a prescreening process to allow owners to initiate legalization process without fear of enforcement action, and enabling their property value to increase.

"Thousands of tenants living in illegal in-laws live in fear of eviction," said Ted Gullicksen of the San Francisco Tenants Union. "This legislation will end that fear and give tenants peace of mind in their own homes."

"There are many in-law units that owners are concerned about being turned in, which then creates a situation that forces a tenant to move and the owner to lose income," said Henry Karnilowicz, a board member of the Small Property Owners of San Francisco. "Many owners thus would much rather have a legal in-law unit rather than having the potential of the loss of the unit and possible penalties and potential lawsuits."

The legislation would accomplish these three goals by creating a process that balances the interests of tenants and property owners. It is entirely voluntary and applies to any existing in-law unit in the city that was constructed before January of 2013. The new process requires a property owner to take four steps: prescreening the unit to determine if it meets the building code; submitting a formal application with documentation; securing building permits for any needed construction; and paying a nominal application fee and any building permit fees.

The legislative proposal was crafted with participation and input from the following organizations and individuals, among others: *Asian Law Caucus/Asian Americans Advancing Justice; Causa Justa/Just Cause; Chinatown Community Development Center; Coalition for Better Housing; Department of Building Inspection; Earthquake Safety Implementation Program; Housing Action Coalition; Livable City; Planning Department; SF Apartment Association*; SF Realtors*; SF Tenants Union; Small Property Owners of San Francisco*; SPUR; Tenderloin Housing Clinic; John Schlesinger, Architect; and Kristy Young, Attorney.* (*These membership organizations have not yet taken a formal position on the legislation.)

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In-Law Legislation Fact Sheet

What are in-law units?

Secondary units and in-law units are two names for the same thing - another self-contained residence on the same lot as an existing house. They can either be attached to the house, like an attic or basement unit, or separate, like a cottage. These units are also called accessory units, guest houses, or granny flats.

The people who live in these units are often family members, students, the elderly, in-home health care providers, the disabled, and others. These units are often much less expensive for the renters, while providing the owners with extra income and the security of having another trusted person nearby.

What does it mean for in-law units to be illegal?

In-law units are illegal when they lack the proper permits and do not meet building and planning codes to ensure the safety of those living in them. The illegal status of in-law units has a negative impact on both tenants and owners. Tenants may not have leases or basic protections and the units may lack the life safety standards set by building codes. Despite earning income from renting in-law units illegally, owners face the potential of losing the unit and a higher chance of penalties and lawsuits.

Why is there a need for legislation?

Secondary units may not be legal if they do not meet certain Planning and Building Code requirements. But San Francisco already has an estimated 30,000 – 40,000 of these units in existence. They are a valuable piece of the City's affordable housing stock. The City has a shortage of housing - especially affordable housing - and adding more legal secondary units is a simple and effective of accomplishing this goal.

While many of these units may not comply to existing safety codes, they're also home to a significant number of people. Some units may meet life and safety requirements and would only require exceptions for density, open, and other planning regulations to become legal.

How does this legislation allow for in-law units to be legalized?

This legislation allows homeowners with a secondary unit built before January 1, 2013 to receive some planning exceptions and apply for life and safety permits. Creating a process to legalize existing units allows the City to make sure that these secondary units are safe and gives a way of measuring the true number of these units.

The new law sets up a pre-screening process, which allows the owner to apply for all needed permits if they pass.

Existing secondary units will be given status as a legal nonconforming unit.

What is the process for legalization?

Step 1. Prescreening

- ❖ An interested property owner goes to the City's Department of Building Inspection with floor plans to determine if their unit is already up to building code and if not, the Department will provide guidance on how the unit could be brought up to code.
- ❖ This prescreening phase of the process is meant to help property owners obtain more information about potential costs for renovation and building permits before submitting the application.

Step 2. Application

- ❖ If the property owner voluntarily decides to pursue the legalization, they would need to fill out an application with the Planning Department.
- ❖ The Planning Department would waive certain zoning and open space requirements for only one existing in-law unit on the property.

Step 3. Building Permits

- ❖ If the unit needs renovation work to comply with the life safety requirements of the building code, the property owner would need to apply for the appropriate building construction permits to proceed.
- ❖ If there is a household already living in the unit, the property owner must provide relocation to the tenants and give them the right to return to the unit after renovation work is completed.
- ❖ The costs for renovation may not be passed through to the tenants.

Step 4. Applicable Fees

- ❖ The property owner pays a nominal application fee to cover administrative costs and any applicable building construction permit fees.
- ❖ The legalized unit may not be subdivided or converted to condominiums; and if it was originally occupied prior to 1979, it remains rent controlled after legalization.
- ❖ At the end of the process, the in-law unit is recorded as a legal, non-conforming unit.

What are the costs associated with legalization?

The costs associated with legalization vary depending on the in-law unit. The prescreening process will help property owners determine if their unit is up to building code, and if not, what needs to be done in order to meet the code. If the owner wishes to legalize their unit and it does not meet the life safety requirements, renovation work must be completed and the appropriate building construction permits need to be acquired. These costs are to be covered by the owner, not the tenant, and relocation must be provided if the in-law unit is currently being occupied. If the unit is up to code, then the application fee is nominal in order to cover the administrative costs.

How are tenants protected?

Once an in-law has been legalized tenants have the right to stay in the unit and will have the same tenant protections as those who occupy other lawful units. The legalized unit cannot be subdivided or converted into a condominium. If the unit was originally occupied before 1979, it is also subject to rent control, maintaining the affordability of the unit. Furthermore, if renovation work is required, the owner must provide relocation to the tenants currently occupying the unit and cannot pass the cost of capital improvements on to the tenants.

Have there been similar legislative attempts in the past?

Members of the San Francisco Board of Supervisors have introduced legislation to legalize or provide amnesty to secondary units. The first attempt was made by Supervisor Hallinan in 1993, which tried to create a 24 month amnesty period for existing units and legalizing them within certain zones as long as they complied with certain restrictions. In 1997, both Supervisor Ammiano and Supervisor Teng tried to pass Amnesty Programs similar to Supervisor Hallinan's but both failed to pass. Supervisor Peskin also introduced two pieces of legislation in 2002 regarding secondary units. The first sought to allow the creation of more units, but made no mention of existing in-law units. The second allowed existing units to apply for a building permit as a new unit but both failed to pass.

In 2009, Supervisor's Mirkarimi, Chiu and Mar sponsored legislation that would allow a secondary unit to be built if the building met building and planning code requirements. This passed and an "Amended Certificate of Occupancy" can be issued with the applicable fees.