

OFFICE OF THE MAYOR
SAN FRANCISCO



WILLIE LEWIS BROWN, JR.

April 19, 2002

Honorable Tom Ammiano, President
Members, San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear President Ammiano and Members:

I am returning with my veto the ordinance prohibiting the construction of new live/work developments in San Francisco (File No. 012127).

I have a fundamental policy disagreement with you on this issue. In the midst of a housing crisis, I simply do not believe it is wise to stop building housing.

Over a year ago, I returned the first of a series of interim moratoria on live/work housing without my signature and challenged the Board to forward to me legislation that contains a reasonable, long-term solution to the issue of live/work housing and its place in San Francisco – legislation that defines live/work as housing and includes an inclusionary affordable housing requirement, full fees and an no-conversion clause that's backed up with a strong method of enforcement. I have also urged the Board to look at this type of housing comprehensively, and pursue reasonable zoning policies that will take into account where this type of housing may be appropriate, and where it may not be – rather than simply ban it outright.

Supervisor Hall answered this challenge last year with legislation that does just this. Had the Board passed Supervisor Hall's legislation, the City would have hundreds of more market rate units today, in addition to more funds available for affordable housing and our school system. It is an economic reality that the creation of new market-rate housing, regardless of what type of housing, is a necessary impetus to the creation of new affordable housing. Why don't we seize that potential – and embrace an inclusionary affordable housing requirement for loft housing – rather than waste it?

The legislation before me now, does not create new housing in San Francisco, nor will it lead to greater affordability in our existing housing stock. It simply prevents new housing from being built. Basic economics dictate that by cutting off the supply of new housing – any kind of housing – we will only drive housing prices up.

I again urge you to reconsider your position on a moratorium on live/work, and focus your efforts on maximizing opportunities for new housing in San Francisco.

Sincerely,

A handwritten signature in black ink, appearing to read "Willie L. Brown, Jr.", with a long, sweeping underline that extends to the right.

WILLIE L. BROWN, Jr.
Mayor

1 [Prohibition of New Live/Work Units.]

2
3 **Ordinance amending the San Francisco Planning Code by amending the definition of**
4 **“Live/Work Unit” in Section 101.13 to clarify that the residential use and the integrated**
5 **work space must be in the same unit, and by amending Section 233 to prohibit new**
6 **Live/Work Units except for accessory uses authorized by Section 204.4.**

7 Note: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strikethrough italics Times New Roman*~~.
9 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. The San Francisco Planning Code is hereby amended by amending Section
12 233, to read as follows:

13 SEC. 102.13. LIVE/WORK UNIT.

14 A live/work unit is a structure or portion of a structure combining a residential living
15 space for a group of persons including not more than four adults in the same unit with an
16 integrated work space principally used by one or more of the residents of that unit; provided,
17 however, that no otherwise qualifying portion of a structure which contains a Group A
18 occupancy under the San Francisco Building Code shall be considered a live/work unit.

19 Section 2. The San Francisco Planning Code is hereby amended by amending Section
20 233, to read as follows:

21 SEC. 233. LIVE/WORK UNITS.

22 (a) After the effective date of this ordinance, no City official, department, board or
23 commission shall issue or approve a building permit or other land use entitlement authorizing
24 a new live/work unit as defined in Section 102.13 of this Code, except as authorized as an
25 accessory use under Section 204.4. Lawfully approved live/work units existing on that date

1 shall comply with the Code provisions in effect at the time they were authorized, as set forth
2 below and in other sections of this Code applicable to live/work units, and shall further be
3 subject to the nonconforming use provisions of Section 181 of this Code.

4 (a ~~b~~) If a live/work unit would occupy any space last used as a dwelling unit or group
5 housing, or whose legal use as shown in the permit records of the City is as a dwelling unit or
6 group housing, the live/ work unit shall not be permitted in any RH or RM District, and shall
7 require conditional use approval in any RC, C, M or South of Market District, notwithstanding
8 Sections 209.9 or 227 of this Code.

9 (b ~~c~~) Live/work units satisfy the conditions of this subsection if:

10 (1) They are part of a project which will result in issuance of a certificate or
11 certificates of occupancy for 10 or more new or additional live/work units; and

12 (2) The project is sponsored by one or more organizations exempt from federal
13 income tax under Section 501(c)(3) of the Internal Revenue Code, each of whose articles of
14 incorporation state as a principal purpose providing living quarters to artists, and each of
15 whose articles of incorporation require that at least 51 percent of the members of the board of
16 directors must be artists engaging in one or more arts activities falling within the definition of
17 Section 102.2 of this Code; and

18 (3) The qualified sponsoring organization or organizations will, until completion of
19 the project:

20 (A) Own the project,

21 (B) Own an interest of 51 percent or more in a joint tenancy or tenancy in common
22 which owns the project,

23 (C) Have a right to 51 percent or more of the net income and of all distributions,
24 including distributions on liquidation, of a partnership or joint venture which owns the project,
25 or

1 (D) Be the only general partner or only general partners, or only managing general
2 partner, in a limited partnership which will qualify the project for complete or partial exemption
3 from property tax under California Revenue and Taxation Code Section 214(g) or a successor
4 provision; and

5 (4) All permits for the project are issued on the application of, and in the name of, a
6 corporation described in Subsection (2) above or a partnership described in Subsection (3)(C)
7 or (3)(D); and

8 (5) The project will, under federal or state law, or local legal authority other than this
9 Code, be required to rent, lease or sell at least 20 percent of the live/work units in the project
10 at rates or prices affordable to households whose incomes are no greater than 50 percent of
11 the median income for households in San Francisco as determined under California
12 Administrative Code Section 6932, or its successor provision, or, alternatively, be so required
13 to rent, lease or sell a minimum of 40 percent of the live/work units at rates or prices
14 affordable to households whose incomes are no greater than 60 percent of said median
15 income; and

16 (6) All non-arts activity other than residential in the project is otherwise permitted in
17 the district, or is otherwise conditional in the district and is approved as a conditional use
18 pursuant to this Code; and

19 (7) The subject live/work units are marketed on a preferential basis for arts activities
20 as defined in Section 102.2 of this Code. For the purpose of this subsection, "preferential
21 marketing" shall consist of:

22 (A) Advertising the initial leasing of all newly created units in publications which are
23 oriented to audiences engaged in arts activities for a minimum of three months in advance of
24 other advertising and, for subsequent vacancies, advertising in similar publications promptly
25

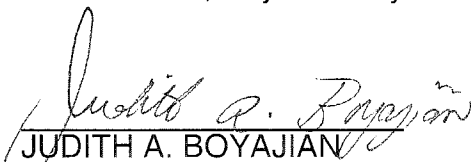
1 after future vacancies are known to the owner or the owner's representatives, but in no event
2 less than one month in advance of other advertising, and

3 (B) Notification of organizations concerned with arts activities a minimum of three
4 months in advance of initial leasing activities and, for subsequent vacancies, promptly after
5 future vacancies are known to the owner or owner's representative, but in no case less than
6 one month in advance of other advertising.

7 (e d) The location of each live/work unit in a multi-unit structure in a C or M District
8 shall be marked by a plaque, diagram or other device visible to emergency personnel from the
9 exterior building face of the structure containing the unit.

10 (d e) Each person, other than a person applying as owner of a fee interest, who
11 applies to erect or alter a live/work unit, or to change use or occupancy in order to authorize a
12 live/work unit, shall submit on a form approved by the Department of Public Health, a
13 disclosure signed by a fee owner of the property in question stating what hazardous materials,
14 if any, are known to exist in the vicinity of the unit. (Added by Ord. 412-88, App. 9/10/88;
15 amended by Ord. 115-90, App. 4/6/90)

16
17 APPROVED AS TO FORM:
18 LOUISE H. RENNE, City Attorney

19 By: 
20 JUDITH A. BOYAJIAN
21 Deputy City Attorney
22
23
24
25



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 012127

Date Passed: April 29, 2002

Ordinance amending the San Francisco Planning Code by amending the definition of "Live/Work Unit" in Section 101.13 to clarify that the residential use and the integrated work space must be in the same unit, and by amending Section 233 to prohibit new Live/Work Units except for accessory uses authorized by Section 204.4.

March 25, 2002 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin,
Sandoval, Yee

Noes: 1 - Hall

Excused: 1 - Newsom

April 8, 2002 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin,
Sandoval, Yee

Noes: 1 - Hall

Excused: 1 - Newsom

April 19, 2002 Mayor — VETOED

April 29, 2002 Board of Supervisors — ADOPTED OVER THE MAYOR'S VETO

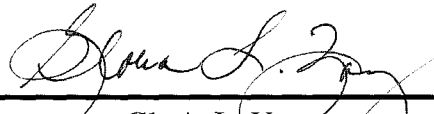
Ayes: 9 - Ammiano, Daly, Gonzalez, Leno, Maxwell, McGoldrick, Peskin,
Sandoval, Yee

Noes: 1 - Hall

Excused: 1 - Newsom

File No. 012127


I hereby certify that the foregoing Ordinance was FINALLY PASSED on April 8, 2002 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young
Clerk of the Board

APR 19 2002

Date Approved VETOED

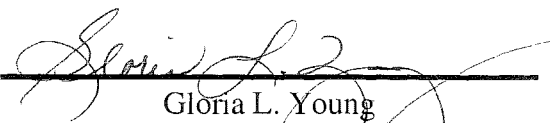


Mayor Willie L. Brown Jr.

Ordinance returned Disapproved April 19, 2002

The foregoing Ordinance, having been adopted by the Board of Supervisors at the Meeting of April 8, 2002 was referred to the Mayor, in accordance with the provisions of Section 3.103 of the Charter, and was returned by the Mayor on April 19, 2002, with the Mayor's disapproval and veto.

On April 29, 2002, this Ordinance was ADOPTED OVER THE MAYOR'S VETO by the Board of Supervisors.



Gloria L. Young
Clerk of the Board