



San Francisco Board of Supervisors

1 Dr Carlton B Goodlett Place
San Francisco, CA 94102

September 27, 2022

Opposition to the Revised Fourplex Legislation

EXECUTIVE SUMMARY

- City analysis finds that fourplexes are financially infeasible under San Francisco’s current permitting process
- HCD (California Department of Housing and Community Development) believes that the fourplex legislation circumvents state housing law
- Discussion of any fourplex bill without addressing project feasibility is neither a productive nor effective use of BOS time
- The Board of Supervisors must focus on ambitious process, zoning, and funding reforms to adopt a housing element which HCD will certify
- Risks for failing to adopt a certified housing element include the loss of eligibility for hundreds of millions of dollars in housing and transportation funding, the diminishment of the City’s land use authority, and litigation

RECOMMENDATIONS

- Withdraw fourplex legislation
- Call hearings in coordination with San Francisco Planning and the Mayor’s Office to ensure City rules and regulations comply with state housing law, and to determine

what programs must be added to the City's upcoming housing element due to HCD by the end of January 2023

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Dear Supervisors:

Three months ago, [San Francisco YIMBY took an *opposed* position](#) on the fourplex rezoning bill originally introduced by Supervisor Mandelman. This legislation would have undermined SB 9 in San Francisco, instead allowing “fake” fourplexes [which the City's own consultant found would be infeasible to build](#), especially by the homeowners meant to take advantage of the bill. We were relieved that on July 21, Mayor Breed rightfully vetoed the fourplex legislation.

However, last week, the Board of Supervisors revived the fourplex bill. This legislation, now split into two bills, largely remains the same as the original bill which San Francisco YIMBY opposed in June. We **oppose** the new bills as well.

We are disappointed that the Board of Supervisors has learned little from the events of the last three months. We now understand that there is likely no legislation which makes fourplex projects feasible under San Francisco's discretionary permitting process. In last week's hearing, however, there was no discussion of the City's own feasibility analysis. The Board demonstrated little regard for the economic consequences of the new bills.

We are not the only group troubled by the Board's legislative efforts. After Mayor Breed's veto of the original bill, the California Department of Housing and Community Development (HCD) [issued a press release applauding her actions](#). HCD wrote that



the original fourplex bill “evades the City’s obligations under SB 9 to provide ministerial approval for small-scale projects,” and that if passed “will render such projects financially infeasible to pursue, as the City’s own analysis acknowledged.” This was a sharp rebuke of the Board of Supervisors from a state agency.

The Board of Supervisors has clearly signaled that it holds state law in contempt by reviving the disingenuous fourplex legislation, against the wishes of HCD. We remind the supervisors that the State of California is investigating the City four times over, in no small part due to the Board’s actions:

- In November 2021, HCD informed San Francisco Planning of inquiries into [the Board’s denial and delay of projects at 450 O’Farrell St and 469 Stevenson St respectively](#).
- Last month, in August, HCD announced a monthslong, multi-agency investigation of San Francisco’s permitting practices. One news report quotes David Zisser, the head of HCD’s Housing Accountability Unit, as saying, [“San Francisco is literally at the top of the list \[for housing approval and permit times in California\].”](#)
- Additionally in August, HCD sent the City notice of an inquiry into [an improperly conditioned housing project at 3832 18th St](#). The improper conditions of approval were introduced by the Planning Commission and later upheld by the Board of Supervisors.

HCD also [rejected San Francisco’s draft housing element in an August 8th letter](#). HCD may well conclude that San Francisco does not intend to comply with state housing law in good faith, and may therefore withhold millions of dollars in affordable housing and transit grants from the City in 2023. This event would represent a tragic,



avoidable loss for the residents of San Francisco and trigger a funding crisis which looms increasingly larger the more the Board persists on this path.

We are concerned that advancing this revised fourplex legislation will not only waste time on a symbolic measure that will at best fail to build any housing, but that it will also further deepen ill will with HCD—thereby imperiling the City’s housing element and risking its decertification.

We urge the Board of Supervisors to use its time to hold hearings on San Francisco’s compliance with state housing law. HCD wrote in their rejection of the City’s draft element that there are “indications of potential violations of various state laws, including the Permit Streamlining Act, Housing Accountability Act, Housing Crisis Act, and State Density Bonus Law.” These are serious allegations, and ones which the Board of Supervisors would be wise to proactively investigate. The future of funding for affordable housing and transit in San Francisco may depend on it.

In conclusion, we are dismayed to see that the Board is now pursuing the revised fourplex legislation, despite admonishment from the state agency tasked with enforcing housing policy in California. We recommend the Board table discussion of the revised fourplex legislation and instead focus its resources on the housing element. We invite you to meet with San Francisco YIMBY and YIMBY Action to learn more about our housing element work, and to determine how best we can partner on an outcomes-focused pro-housing agenda for the city.

Best regards,

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SF YIMBY

Yes to People. Yes to Housing.
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