

ZACKS, FREEDMAN & PATTERSON

A PROFESSIONAL CORPORATION

Received at HPC Hearing 12/18/19
S. Calhoun
255 Montgomery Street, Suite 400
San Francisco, California 94104
Telephone (415) 956-8100
Facsimile (415) 288-9755
www.zfplaw.com

December 18, 2019

VIA EMAIL AND MESSENGER

Aaron Hyland, President
San Francisco Historic Preservation Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103
Commissions.secretary@sfgov.org

Re: 790 Lombard Street
Legacy Business Registry application – Case No. 2019-022726LBR
Failure to provide notice and comply with procedural due process requirements

Dear President Hyland and Commissioners:

Our office has just been retained to represent Siu Chuen Ng and Shiu Quan Ng, who own the property at 790 Lombard Street. The Ng family was surprised and distressed to learn that a Legacy Business Registry application has been submitted, with a hearing at your Commission scheduled for today. It is impossible for them to adequately prepare for, or participate in, today's hearing without proper notice. We submit this letter for the sole purpose of objecting to the City's violation of procedural due process requirements and do not waive any substantive objections or remedies.

The Legacy Business Registry application is a quasi-judicial process which, if approved, will deprive the property owners of a valuable property right. Under Planning Code § 780.3(c)(6), "any new Non-Residential Use proposed where the immediately prior Commercial Use was a Legacy Business shall require Conditional Use authorization pursuant to Section 303 of this Code." Therefore, the owners may be deprived of *any* principally permitted use of their property. Even if a future Conditional Use application were successful, it could deprive them of all use for an extended period of time.

As the affected property owners, the Ng family is entitled to individualized written notice. However, they received no such notice. Moreover, the Legacy Business Registry program apparently lacks any notice requirement for property owners *whatsoever*. "[A]cceptable techniques might include notice by mail to the owners of record of property situate within a designated radius of the subject property, or by the posting of notice at or near the project site, or both. **Notice must, of course, occur sufficiently prior to a final decision to permit a 'meaningful' predeprivation hearing to affected landowners.**" (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 618 (emph. added), citing *Bell v. Burson* (1971) 402 U.S. 535, 541; *Beaudreau v. Superior Court* (1975) 14 Cal.3d 448.)

The Commission must continue this hearing until such time as proper notice has been given to the property owners. We are happy to discuss this matter further at your convenience.

A/0/0/1
AARON HYLAND
December 18, 2019
Page 2

Very truly yours,

ZACKS, FREEDMAN & PATTERSON, PC



Ryan J. Patterson

cc: Shelley Caltagirone, Senior Planner, shelley.caltagirone@sfgov.org

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Page 2

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ZACKS, FREEDMAN & PATTERSON, PC

A handwritten signature in black ink, appearing to read "Ryan Patterson". The signature is written in a cursive style with a horizontal line underneath the name.

Ryan J. Patterson

cc: Shelley Caltagirone, Senior Planner, shelley.caltagirone@sfgov.org

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Ryan J. Patterson

cc: Shelley Caltagirone, Senior Planner, shelley.caltagirone@sfgov.org

C. Florin



Historic Preservation Commission Endorsement Hearing

December 18, 2019

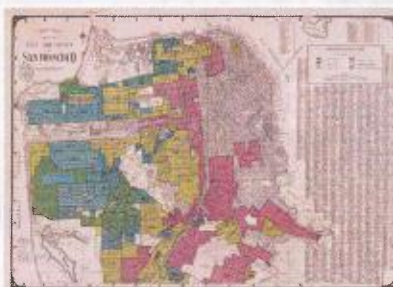
San Francisco
Planning

Presentation Overview

- I. Background
 - a. Initiative Components
- II. Implementation
- III. Next Steps

Why Racial & Social Equity?

- Disparities across measures (income, health, education, housing, etc.) are either stagnant or increasing
- City staff could be more diverse and better represent our communities
- Government and the Planning field historically played a significant role in racial and social inequity
- Government has a responsibility to advance racial and social equity



Red Lining Map

San Francisco's Vision

A safe, vibrant and inclusive City of shared prosperity



Residents and families that thrive

Clean, safe and livable communities

A diverse, equitable and inclusive city

Excellent city services

A city and region prepared for the future

Office of Racial Equity (Human Rights Commission Division)

- Develop the City's Racial Equity framework and policy priorities
- Publish a biennial Racial Equity Report Card
- Analyze pending Board of Supervisor Ordinances for potential disparities
- Develop a racial reconciliation process
- Oversee and assist departmental Action Plan development
- Create Budget Equity Assessment Tool

Office of Racial Equity (continued)

- City Departments must:
 - Complete Action Plan with metrics by December 2020
 - Present publicly, update every 3 years, prepare annual progress reports
 - Apply Equity Tool to proposed budget
 - Designate departmental racial equity leaders
 - Submit a staffing plan
 - Senior managers to support and engage with leaders
 - Ensure non-retaliation

San Francisco Planning's Equity Work

- Eastern Neighborhoods
- Sustainable Chinatown Plan
- Legacy Businesses work
- Cultural Districts
 - Japantown Cultural Heritage and Economic Sustainability Strategy
 - SoMa Pilipinas Cultural Heritage District
 - LGBTQ+ Cultural Heritage Strategy
 - African American Arts and Cultural District
 - Calle 24 Cultural District
 - Castro Cultural District
 - Compton's Transgender Cultural District
 - Native American Cultural District

Initiative Components

- Phase I Action Plan (internal operations)
 - Racial & Social Equity Vision
 - Staff training and baseline survey
 - Interim Racial & Social Equity Assessment Tool
 - Implementation roadmap
- Phase II Action Plan (external operations)
 - Community engagement
 - Tailored Racial & Social Equity Assessment Tools
- Ongoing
 - Implementation and integration
 - Monitoring and tracking
 - Plan updates every three years, annual reporting

Phase I: Department Goals

- Goal 1 • Hiring
- Goal 2 • Organizational Culture and Staff Capacity
- Goal 3 • Budget and Resources
- Goal 4 • Procurement and Contracting
- Goal 5 • External and Functions



Implementation

Accountability: DRAFT Implementation Matrix

SF PLANNING'S RACIAL & SOCIAL EQUITY ACTION PLAN PHASE I (INTERNAL) - DRAFT INDICATORS / OUTCOMES DASHBOARD

GOAL	DRAFT INDICATORS
Hiring, Promotions and Retention goal	<ul style="list-style-type: none"> A representative pool of applicants from diverse backgrounds for all positions
Department Culture, Staff Capacity-Building and Core Competencies goal	<ul style="list-style-type: none"> % of staff who understand and support racial and social equity best practices as measured by the bi-annual staff survey
Resource Allocation goal	<ul style="list-style-type: none"> Final resource allocation for projects prioritizes equity - funding areas with disparities (low-income communities of color and other vulnerable populations) - and reflects relative neighborhood need.
Procurement and Consultants goal	<ul style="list-style-type: none"> LBEs, including WMEs, MBEs and OBEs, are well represented in consultant applications and can easily access information

Accountability: DRAFT Implementation Matrix

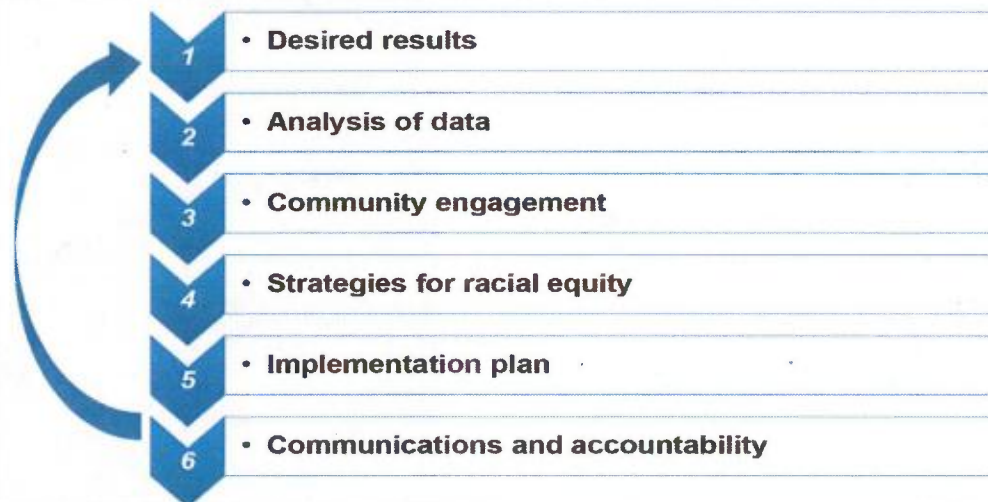
1. Hiring, Promotions and Retention Goal

ASSOCIATED ACTIONS	PERFORMANCE MEASURES & ACCOUNTABILITY - RESULTS AND OUTCOMES		IMPLEMENTATION TIMELINE (COMPLETION)	DUE DATE / STATUS	LEAD
	How much did we do? (e.g. # of activities)	How well did we do it?			
OBJECTIVE 1.1 Staff recruitment strategies are consistent, inclusive, easy to understand, transparent and work to advance racial and social equity and diversity, consistent with applicable laws.					
1.1.1 Analyze current outreach and recruitment strategies to determine whether practices are consistent across divisions and include strategies to advance equity and broaden job posting distribution.	Annual update of outreach and recruitment list with identified locations that reach diverse audiences	% increase in applicants from diverse backgrounds by job class and division Consistent use by all hiring managers of enhanced outreach and recruitment list	Year 1 - update list	Dec 1 2019 to update list. Ongoing	HR + Core team for updating list. HR & Hiring managers for emailing targeted contacts.
1.1.1 Analyze current hiring processes across the Department to better understand how job posting language is drafted, interview and exam questions are developed, interview panels are selected, resume review procedures, and where inconsistencies may exist in the process, among other topics, to ensure panels and reviewers are diverse and can engage with racial and social equity concepts, as appropriate.	Guidelines created.	Consistent use of guidelines (consistent with Prop 209) by all hiring managers/staff.		July 2020 or sooner for draft guidelines / not started	HR manager + Core Team member(s) + hiring managers

Implementation: Proposed Priorities

- Training
 - Advanced training for managers
 - Fairness in hiring training
 - Implicit bias training
- Enhanced outreach and recruitment
 - Hiring
 - Contracting and grants
- Guidelines and/or criteria
 - Hiring managers, resume reviewers and interview panelists
 - Contractor expectations and reviewer scoring criteria
- Budget Assessment Tool

Interim Racial & Social Equity Assessment Tool



Retained Elements Design Guidelines

Racial & Social Equity Assessment

What are the **intended racial and social equity impacts/outcomes?**

- To build upon architecture and preservation community efforts to broaden inclusion of cultural expression, creative viewpoints, and decision-making processes where people of color and women have been historically underrepresented.
- To expand retention of the built environment in design practice to encourage projects that support neighborhood identity.

Who will benefit from or be burdened?

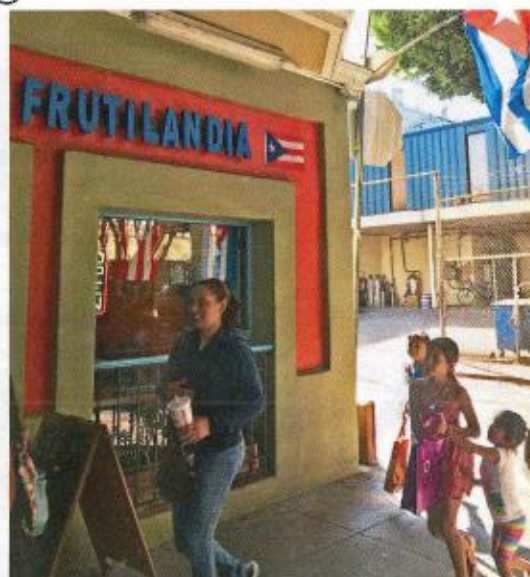
- Potential increased housing costs could burden tenants/owners > Mitigation: look for ways to reduce costs, review overall benefits in balance, and adapt the element to accommodate feasibility.
- Minor limitations on design flexibility > Mitigation: Seek to adapt the retained element(s) to the needs of the project without diminishing its integrity.

Application of these guidelines is discretionary by decision-making bodies and intended to help support equitable site outcomes.

Calle 24 Special Area Design Guidelines

Equity Goals

- Increase cultural and aesthetic representation of Latino community in built environment
- Guidelines are attainable for low-income and immigrant property and business owners and do not contribute to displacement
- Decrease community, project applicant, and staff resources for design review



Heritage Element Placeholder

- Address the identification & safeguarding of the intangible qualities of heritage in order to better represent ethnic and social histories
- Promote incorporation of community values in historical significance evaluations
- Review with the Racial & Social Equity Assessment Tool



Next Steps

Phase II: Department Operation Areas

- Community Outreach, Engagement and Communications
- Community Plan Development
- Data Analysis
- Regulatory (CEQA, Planning Code) and Design Review
- Policy and Legislation Development (includes community planning)
- Historic Preservation
- Planning Code Enforcement and Monitoring

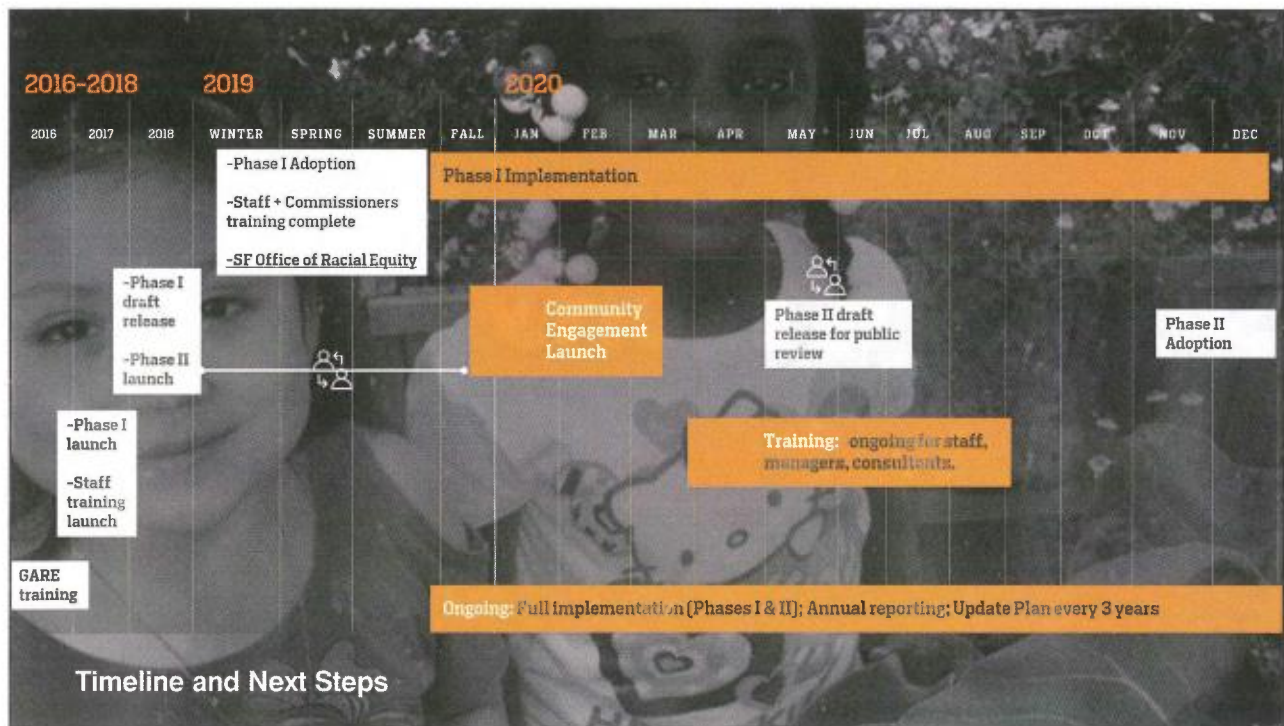
Phase II: Historic Preservation Draft Goal

The history of racial and social inequity informs our understanding of the City's past and decisions about our future, and the identification, protection, and management of cultural resources recognizes communities of color and other historically marginalized groups.

- Identification utilizes equitable research methods
- Protection of heritage resources is executed equitably
- Management of heritage resources results in equitable outcomes
- Promote preservation programs equitably

Summary of Commissions' Direction

- Align the Department's work priorities
- Prioritize implementation resources
- Implement hiring, recruitment, retention and staff cultural competency strategies
- Develop a policy statement, standards and criteria to guide work
- Investigate what are the constraints for Commissioners
- Provide direction and information to project sponsors
- Develop Racial & Social Equity Tool to guide Commission decisions
- Continue Commissioner education and collaboration spaces



Historic Preservation Commission Action

- Endorse the Racial & Social Equity Action Plan Phase I, inclusive of the Vision
- Urge Department staff to:
 - Implement Phase I Action Plan and finalize implementation matrix and performance metrics
 - Develop Phase II with community members, Office of Racial Equity and City agencies
 - Ensure historically underserved communities have equitable access to funding, regulatory relief and services
 - Propose General Plan amendments to incorporate racial and social equity



Thank you and Questions?

Received at HPC Hearing 12/18/19
S. Callaghan

**SIGNATURES IN SUPPORT OF
CAFFE SAPORE**

12-18-19

**HERE ARE 1,984 SIGNATURES ON LINE AND
HARD COPY FROM NEIGHBORS WHO SUPPORT
CAFFE SAPORE REMAINING IN BUSINESS IN
THE NEIGHBORHOOD, RECOGNIZING ITS 23
YEAR HISTORY IN NORTH BEACH AND ITS MANY
CONTRIBUTIONS TO THIS COMMUNITY OVER
THOSE YEARS.**

**A LEGACY BUSINESS DESIGNATION OFFERS
RESOURCES TO HELP MAINTAIN BUSINESSES
LIKE SAPORE IN NEIGHBORHOODS THAT
BADLY NEED THE CONTINUITY AND QUALITY OF
LIFE THAT CAFFE SAPORE UNDERPINS. WITH
26 VACANT STOREFRONTS ON OR ADJACENT
TO COLUMBUS AVENUE BETWEEN LOMBARD
AND VALLEJO, THE NEED TO KEEP THIS
SUCCESSFUL BUSINESSES OPEN IS
PARAMOUNT.**

**CAFFE SAPORE HAS OVERWHELMING SUPPORT
FOR A LEGACY BUSINESS DESIGNATION.**

SaveSapore



Emma Dunbar started this petition to sunny.engulo@sfgov.org

Caffe Sapore has been open for 23 years at the corner of Lombard and Taylor in North Beach, San Francisco. The landlord has terminated the lease without explanation. Sapore is a second home, living room, and meeting space for our neighbors.

The impending closure of Caffè Sapore forces our neighborhood, city, tenants, landlords and politicians to ask: What is the value of our shared spaces? They represent community, friendship, human connection, trust, and safety. How do we preserve these ideals when the spaces that bring us together disappear.

Help stop San Francisco from losing another beloved shared space. Save Sapore.

1,392 have signed. Let's get to 1,500!

Isley mendosa signed this petition

Liduna Van res signed this petition

San Francisco, 94133
United States

Display my name and comment on this petition

By signing, you accept Change.org's [Terms of Service and Privacy Policy](#) and agree to receive occasional emails about campaigns on Change.org. You can unsubscribe at any time.

PETITION TO SAVE CAFFE SAPORE

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Help stop San Francisco from losing another beloved shared space.

Sign on Change.org under "caffesapore" or SIGN BELOW:

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email address

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melodybhernandez@gmail.com

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Kristina.davis@msn.com

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Don't close Cafe Sapor !!!

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Chelsea Haury

Paul Williams

Jill Standlee

Cody Connolly

Maxine Simon

Eileen Tublin - we @ this place.

Dev Ryals

Kortney Cervantes

MARIA BONN

Kelsey Waltrip

Rachael Vasquez

DELFINA PIRETTI

Kristy Cannon

Bikki Cannon

Fenna de Blaauw

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MAC CANN

Chloe Chinn

JAMES TITCHENER

PETITION TO SAVE CAFFE SAPORE

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SIGN on Change.org under "savesapore" or SIGN BELOW:

Name (print)

email address

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SIDNEY J. R. HOLLISTER

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Caffe Sapore has been open for 23 years at the corner of Lombard and Taylor in North Beach, San Francisco. The landlord has terminated the lease without explanation. Sapore is a second home, living room, and meeting space for our neighbors.

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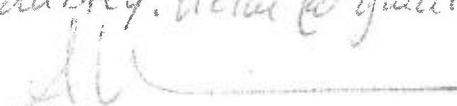
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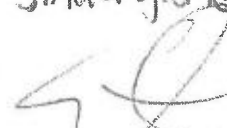
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PETITION TO SAVE CAFFE SAPORE

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Help stop San Francisco from losing another beloved shared space.

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