

Berkeley City Council

ACTION CALENDAR

July 10, 2012

To: Honorable Mayor and Members of the City Council
From: Councilmembers Laurie Capitelli and Jesse Arreguin
Subject: Amendments to the Soft Story Ordinance

RECOMMENDATION

That the City Manager develop language amending BMC 19.39 that would require owners of multi-unit residential buildings of 5 or more units, that have previously been identified by the City of Berkeley as containing soft, weak, or open front stories – “soft story” buildings – to retrofit their buildings within an appropriate time frame as determined by Council. Suggested language is attached.

BACKGROUND

The Soft Story Ordinance, BMC 19.39, was adopted by the City Council in December of 2005. It required 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.

In September 2010 Councilmembers Capitelli and Arreguin requested that the City Manager develop an ordinance requiring property owners identified through the 2005 ordinance to complete the retrofit of their buildings if they had not already done so. (See Attachment)

In February 2011, the Rent Stabilization Board completed a study of properties that were currently on the list but had not been retrofitted. The study established a standard model to examine whether the financial standing of these properties would allow the owners to borrow up to \$10,000 per unit for a seismic retrofit under a typical set of circumstances. (See attached)

Though this issue has come up several times at the 4 X 4 committee, Council has yet to entertain a draft ordinance amendment that would take Berkeley’s Soft Story Program to the next step, insuring some level of seismic safety for many Berkeley tenants.

FINANCIAL IMPLICATIONS

Staff time to develop ordinance language.

CONTACTS

Laurie Capitelli, District 5	510-981-7150
Jesse Arreguin, District 4	510-981-7140

ATTACHMENTS

1. Draft Amendments to BMC 19.39
2. "Phase Two of the Soft-Story Retrofit Program and Enforcement of Phase One," Consent Calendar, September 21, 2010.
3. "Rent Stabilization and Seismic Improvements for Soft Story Properties," RSB Memo, February 24, 2011

DRAFT AMENDMENTS

Date of Draft: February 21, 2011

Date of Revision: June 25, 2012

Chapter 19.39 POTENTIALLY HAZARDOUS BUILDINGS CONTAINING SOFT, WEAK, OR OPEN FRONT STORIES

Sections:

- [19.39.010](#) Title, findings, and purpose.
- [19.39.020](#) Scope and applicability.
- [19.39.030](#) Adoption and modifications of Chapter A4 of the 2003 IEBC.
- [19.39.040](#) Establishment of the Inventory of Potentially Hazardous Soft Story Buildings.
- [19.39.050](#) Notice to owners and administration.
- [19.39.060](#) Owner and tenant obligations.
- [19.39.070](#) Analysis of structural seismic adequacy.
- [19.39.080](#) Removal of building from the inventory.
- [19.39.090](#) Compliance schedule for submittal of seismic analysis.
- [19.39.095](#) Compliance schedule for completion of seismic retrofit
- [19.39.100](#) Fifteen-year exemption for retrofitted buildings.
- [19.39.110](#) Public nuisance.
- [19.39.120](#) Remedies cumulative.
- [19.39.130](#) Severability.

19.39.010 Title, findings, and purpose.

- A. This chapter shall be known as the "Soft Story Ordinance."
- B. The Council finds as follows:
 - 1. A survey of Berkeley buildings in 1996 identified nearly 400 wood frame buildings with five or more units with a ground level containing large openings such as storefronts, garages, or tuck-under parking.
 - 2. The openings on the ground floor of such buildings can create a weak or soft, story.
 - 3. Buildings with soft, weak, or open front ground stories are recognized by engineers and other seismic safety experts as having the potential for sustaining serious damage including collapse in the event of strong earthquakes.
 - 4. Earthquakes in California and elsewhere have demonstrated such damage, injuring and killing people, displacing residents, and causing severe economic loss and disruption to communities.

5. The City of Berkeley conducted an assessment project in 2001 that identified approximately 5,000 residential units in buildings that may have such stories.
6. A sidewalk assessment was done of 150 identified buildings by professional engineers and found that 46% have severe or considerable vulnerability to damage in a major earthquake and that another 49% had moderate vulnerability.
7. Advances in the design of construction and retrofit of structures to better withstand seismic forces have occurred since such buildings were constructed and resulted in new requirements in current codes.
8. The establishment of an inventory and notification to owners and residents is a necessary first step in developing a mitigation program and will provide the basis for obtaining input from affected parties for such a program.
9. Although the general vulnerability of such buildings is known, determining the seismic adequacy of each of the structures and the appropriate elements of a retrofit to remedy vulnerabilities requires a detailed evaluation by an approved licensed engineering design professional.
10. Such an evaluation is also necessary for the City Council and staff to identify fully the risks to the City and its inhabitants and to determine the feasibility of programs to address the vulnerabilities.
11. Model codes have been developed for analyzing and retrofitting such structures to provide for risk reduction with less design effort, construction cost, and tenant disruption than the Uniform Building Code.
12. While these codes are not intended to provide structural performance equivalent to that provided by new construction built to the current Building Code, they identify and provide for improving the structure's more vulnerable portions and, if identified improvements are made, can be expected to substantially reduce the likelihood of excessive building drift or collapse and substantially lessen the loss of human life.
13. The current nationally recognized model code for the retrofit of soft story residential buildings is Appendix Chapter A4 of the International Existing Building Code as published by the International Code Council.
14. In 2005, California Health and Safety Code sections 19162 and 19163 were amended to expressly authorize cities to adopt ordinances requiring building owners to comply with a nationally recognized model code relating to the retrofit of existing buildings or substantially equivalent standards.

15. The City Council has determined that it is essential for the safety of its residents to make this Chapter's seismic hazard mitigation standards mandatory for apartment buildings falling within the scope and applicability of this ordinance as set forth below and to require that these buildings be retrofitted to comply with the adopted standards within the timetable set forth herein.

C. The purpose of this chapter is to protect the public health, safety and welfare, to alert the general public and the owners and residents of certain types of existing multi-unit residential buildings to the vulnerability of such buildings in strong earthquakes, to determine the specific seismic vulnerabilities and necessary improvements for each such building, and to require buildings to be retrofitted to comply to the standards established herein.

D. This chapter requires the establishment of an inventory of potentially hazardous buildings that contain a soft story on the ground floor and that have at least five residential units, provides for notification to the owners, residents and users of such buildings, adopts the International Existing Building Code, and requires owners to provide an analysis of their building's seismic adequacy and correction of such conditions as outlined herein (Ord. 6883-NS § 1 (part), 2005) and require owners to perform retrofit work to comply with standards as established herein.

19.39.020 Scope and applicability.

A. The provisions of this chapter shall apply to all existing wood frame multi-unit residential buildings that contain five or more dwelling units, as defined in the City of Berkeley zoning ordinance, and that were designed under a building permit applied for before the adoption of the 1997 Uniform Building Code, where:

1. The Ground Floor, whether itself constructed of wood or other materials, of the wood frame structure contains parking or other similar open floor or basement space that causes Soft, Weak, or Open Front Wall Lines and there exists one or more levels above, or;
2. The walls of any story or basement of wood construction are laterally braced with Nonconforming Structural Materials as defined in this IEBC Chapter A4 and there exists two or more Levels above.

B. Buildings listed on national, state or local historical registers shall also comply with the provisions of this chapter. At the Building Official's discretion, modifications to the IEBC may be permitted when such modifications are consistent with the provisions of the State Historical Building Code. (Ord. 6883-NS § 1 (part), 2005)

19.39.030 Adoption and modifications of Chapter A4 of the 2003 IEBC.

A. Chapter A4 of the 2003 International Existing Building Code ("IEBC"), as published by the International Code Council or any amendments thereto as determined by the City of Berkeley Building Official is hereby adopted and made a part of this chapter as though fully set forth herein, subject to modifications set forth in this chapter. For purposes of this chapter, the standards in the IEBC shall be used for the analysis of seismic weakness and to formulate the elements of work required to remedy any

identified weaknesses. For the purposes of this chapter, the non-wood frame ground floor of a designated building shall also be analyzed.

B. The Building Official shall provide guidelines delineating the standards for the use of Chapter A4, including amendments for buildings with concrete podia and non-wood-frame ground floors, and for filing the report required by this ordinance. The guidelines shall provide details for items required in the report, procedures to be followed, and a framework for both the assembly of the required information by the professional and for the evaluation of the report by the City.

C. To provide standards for the analysis of a non-wood frame ground floor, the American Society of Civil Engineers (ASCE) Standard 31 - "Seismic Evaluation of Existing Buildings", 2003 Edition, is hereby adopted by reference.

D. Chapter A4 of the 2003 International Existing Building Code is amended as follows

1. Section.A403.2 Scope of Analysis is amended to add the following: If the wood structure is constructed over a concrete or concrete block masonry wall or frame podium, the adequacy of the lateral system of the podium shall be verified per section A403.12.

2. Section A403 is amended to add a new section as follows: A403.12: Verify Adequacy of the Lateral System of the Podium Base. Provide an evaluation of the podium level of the structure following the requirements of ASCE Standard 31 - "Seismic Evaluation of Existing Buildings", 2003 Edition. The podium structure is to be evaluated with the ASCE 31 Screening Phase (Tier 1) per ASCE 31 Section 3.0. For each Non-Compliant (NC) item on the ASCE 31 Screening Phase (Tier 1) Structural Checklist provide an analysis following the requirements of the Tier 2 of ASCE 31 Section 4. Establish a strengthening plan to mitigate the remaining Non-Compliant (NC) items from the Tier 2 analysis.

E. Terms in capital case used in this chapter are as defined in Chapter A4 of the IEBC and in ASCE Standard 31, unless otherwise defined in this chapter. (Ord. 6961-NS § 1, 2006; Ord. 6883-NS § 1 (part), 2005)

19.39.040 Establishment of the Inventory of Potentially Hazardous Soft Story Buildings.

Multi-unit wood frame residential buildings with five or more residential units identified by a 1996 survey conducted by the City as containing a Soft, Weak, or Open Front Ground Floor shall be placed on the Inventory of Potentially Hazardous Soft Story Buildings. Such buildings are designated soft story buildings. The inventory shall be maintained and revised as necessary by the Building Official. A copy shall be available for inspection in the office of the Building Official and in the Office of the City Clerk. (Ord. 6883-NS § 1 (part), 2005)

19.39.050 Notice to owners and administration.

A. Contents of Notice and Order. When the Building Official determines that a building is within the scope of this chapter, the Building Official shall issue a notice and order as provided herein. The notice

and order shall specify that the building has been determined by the Building Official to be within the scope of this chapter, placed on the inventory, and, therefore, is required to meet the seismic analysis and other provisions of this chapter unless removed on appeal. The notice and order shall specify the building type classification, if known, and shall set forth the owner's obligations under this chapter, the time limits for compliance, and appeal rights. The Building Official's determination shall be final at the end of 180 days unless a timely request for reconsideration is filed as provided below.

B. Service of Notice and Order. The notice and order shall be in writing and may be given either by personal delivery thereof to the owner or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to the owner of the property as shown on the last equalized assessment roll of the county, or as known to the Building Official, as well as to the following, if known: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure to serve any person required herein to receive service shall not invalidate any proceeding hereunder as to any person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

C. Appeal to Building Official. Any person entitled to service of notice under the preceding subdivision may request the Building Official to reconsider a determination to include a building on the inventory by submitting information that the building's ground floor is not soft, weak, or open as defined by the applicable standard, that the building has been substantially reconstructed in accordance with the 1997 or later Uniform Building Code, or that the building has been retrofitted in compliance with Article 11 of the current Berkeley Building Code or the IEBC. The request for reconsideration shall be filed within 180 days from the date of the service of such notice and order of the Building Official.

D. Appeal to Housing Advisory Commission. Any person entitled to service of notice under the preceding subdivision who disagrees with the decision of the Building Official on reconsideration pursuant to that subdivision may appeal within 30 days of the date of notice of the Building Official's decision on reconsideration to the Housing Advisory Commission (HAC) as provided for in BMC Chapter [19.44](#). For purposes of this chapter, the appeal shall be set for hearing at the next regular HAC meeting more than 20 days, but not more than 60 days, from the date of filing of the appeal, provided that the Commission may set the hearing at a different time for good cause.

E. Recordation. Once the Building Official's determination is final, the Building Official shall file with the Office of the County Recorder a certificate stating that the subject building is within the scope of this chapter, unless the property has been removed from the inventory. The certificate shall also state that the owner thereof has been ordered to conduct a structural analysis of the building in compliance with this chapter. When a building is removed from the inventory, the Building Official shall promptly file with the Office of the County Recorder a certificate so stating.

F. Costs of Additional Compliance Actions. In addition to any penalties authorized by the Berkeley Municipal Code, an owner who fails to comply with the provisions of this chapter may be charged

reasonable fees, as adopted by City Council resolution, to compensate for staff time spent to bring the building into compliance. (Ord. 6883-NS § 1 (part), 2005)

19.39.060 Owner and tenant obligations.

A. Obligation of Owners to Notify Tenants and Post Notice regarding the status of the building. Once the Building Official's determination is final, owners of buildings on this inventory shall do the following:

1. Within 30 days, notify each tenant in writing, using the form in Appendix A below, and notify each new tenant at a change of tenancy, that the building is included on the inventory. Thereafter the rent board is authorized to provide such notice on an annual basis.

2. Post in a conspicuous place within five feet of each main entrance of the building, and maintain until the building is removed from the inventory, a clearly visible warning sign not less than 8" by 10" the following statement, with the first two words printed in 50-point bold type and the remaining words in at least 30-point type:

"Earthquake Warning. This is a soft story building with a soft, weak, or open front ground floor. You may not be safe inside or near such buildings during an earthquake."

3. Mail, within 30 days of initial service, a copy of each tenant notification form in compliance with this section and a completed proof of service addressed to: Building Mitigation Manager, Building and Safety Division, 2120 Milvia Street, Berkeley, CA 94704. Any tenant's name so provided shall be used by the City only for purposes of confirmation and shall be rendered illegible in the filed document.

B. Obligation of the Owners to carry out the retrofit:

1. The owners shall apply for and obtain building permits for seismic retrofitting within the time frame specified in the compliance schedule set out in this chapter.

2. The owners shall seismically upgrade each building, within the time frame specified in the compliance schedule set out in this chapter, to the standard required in this chapter, or an alternative standard which is in accordance with the City's Building Code and is accepted by the building official.

C. Obligation of the Owners to Notify Tenants regarding the retrofit

1. The owners shall notify each tenant in writing of the owner's planned schedule for engaging in seismic retrofit pursuant to this chapter, at least thirty (30) days in advance of the first planned construction, including notice of any reasonably anticipated major disruption or reduction in service provided to the tenants.

2. The owners shall notify each tenant in writing of any relocation by the tenant which will be reasonably necessitated by mandatory seismic retrofit pursuant to this chapter, at least ninety (90) days in advance of such necessary relocation.

3. The owners shall notify each tenant that he or she may be eligible for financial assistance to offset the cost for the relocation as provided for in the City of Berkeley Relocation Ordinance.

D. Obligations of Tenants to Cooperate. Each tenant of a building on the inventory shall cooperate with the owner and the owner's agents, including but not limited to engineers, contractors, and inspectors, to accomplish the required analysis and retrofit. In so doing, tenants shall allow reasonable access to the building and their unit or space as needed and as permitted by California Civil Code [1954](#).

Appendix A

Notice to Tenants re: Soft Story Building

This is to notify you that the building at _____, Berkeley, California is on the City of Berkeley's Inventory of Potentially Hazardous Soft Story Buildings and may constitute a severe threat to life safety in the event of an earthquake of moderate to high magnitude.

This notice is required by Berkeley Municipal Code (BMC) Chapter 19.39. This chapter also requires that the building be analyzed by a civil or structural to determine its seismic vulnerability.

For purposes of the program, soft story buildings are those buildings constructed prior to 1997, containing at least five residential units and typically having tuck-under parking or a storefront on the first floor.

If you have any questions about the law, please contact _____ the project manager:

- by phone at _____,
- by e-mail at _____,
- by mail at _____.

For questions about this particular building, please contact:

(Name of owner or manager and how to contact)

(signature of owner) (date) (print name)

Proof of service (Return signed copy to 2118 Milvia Street)

On _____ I delivered the above notice by:

Placing it in the mail of the United States Postal Service addressed as follows:

Personally delivering it to:

_____ at _____

(signature of server) (date)

(print name)

(Ord. 6883-NS § 1 (part), 2005)

19.39.070 Analysis of structural seismic adequacy.

Within two years of the date of service of the notice of inclusion on the inventory, the owner of each building on the inventory shall submit an Initial Screening and a detailed seismic engineering evaluation report prepared by a qualified California licensed structural or civil engineer that: analyzes the structural ability of the building to resist the seismic effects of earthquakes and the extent to which the building meets the standards for structural seismic adequacy as set forth in Chapter A4 of the 2003 IEBC as modified by this chapter, identifies any hazardous exterior design elements, describes the elements of work needed to remedy the identified weaknesses, and provides other relevant information as specified by the Building Official. The seismic evaluation report review fee as set by City Council resolution shall apply. The purpose of the analysis is to investigate the structural systems of a building that resist forces imposed by earthquakes and to determine if any individual portion or combination of these systems is inadequate to prevent a collapse or partial collapse or other damage hazardous to life. (Ord. 6883-NS § 1 (part), 2005)

19.39.080 Removal of building from the inventory.

A building shall be removed from the inventory under the following circumstances:

- A. A determination by the Building Official that the building does not contain a Weak, Soft, or Open Front Story and meets the applicable standards;
- B. The satisfactory completion of a seismic retrofit and appropriate inspections bringing the Soft, Weak, or Open Front Story of the building up to the requirements of the applicable standards of Chapter A4 of the 2003 IEBC;
- C. A determination by the Building Official or a decision on appeal that the building is not a building with Soft, Weak, Or Open Front Stories; or

D. Lawful demolition of the building. (Ord. 6883-NS § 1 (part), 2005)

19.39.090 Compliance schedule for submittal of seismic analysis.

A. Deadlines. All owners of potentially hazardous soft story buildings shall submit the required analysis of structural seismic adequacy in accordance with this chapter no later than two years from notice by the City of Berkeley.

B. Acceleration of Deadline. Notwithstanding subdivision A of this section, this deadline shall be accelerated, and the owner shall submit the required analysis of structural seismic adequacy, whenever any one or more of the following occurs:

1. The Building Official determines that the building or any major portion thereof will be reoccupied after being vacant for six months or longer.
2. The building will undergo a remodel, alteration, addition or structural repairs valued at more than \$50,000 per unit, except for repairs found by the Building Official to be required for routine maintenance or emergency purposes or tenant improvements that the Building Official finds are not structural, will not hinder the required analysis, and are paid for by that tenant for that tenant's use.
3. Title to the building is transferred in whole or part or the building is sold to a new owner or owners, except that changes in title due to inheritances or transfers between spouses or registered domestic partners shall not require compliance with this part.
4. Additional financing is obtained which is secured by a deed of trust or mortgage recorded on the title to the building. Financing secured solely to refinance existing debt against the property shall not be considered as additional financing for the purposes of this chapter.
5. The use of the building changes such that Section 502 of the Berkeley Building Code (BMC Chapter 19.28) applies.
6. The building is identified by the Building Official as an Unsafe Building as defined in Section 203 of the Berkeley Building Code (BMC Chapter 19.28).

C. Extensions of Deadline. The City Manager or his/her designee may extend the deadline for the required analysis by up to six months, and prior to expiration of that extension may grant up to two additional extensions of up to six months each, if:

1. The owner submits to the City Manager a detailed written statement requesting the extension, explaining why it should be granted and clearly documenting the reasons therefore in accordance with the requirements of this part.
2. The owner agrees in writing to fully cooperate with the City in seeking all available financing, if the reason is lack of funds.

Extensions granted under this part shall not extend deadlines for correction of any other violations of any other ordinances.

D. Required Findings. In order to grant an extension, the City Manager must find that:

1. The building does not present an imminent threat to life safety of occupants or the public, based on a report from a California licensed structural or civil engineer;
2. The building owner has complied with the requirements of Sections [19.39.060](#) and [19.39.070](#).
3. The owner has demonstrated there are unique and exceptional circumstances that prevent compliance. (Ord. 6883-NS § 1 (part), 2005)

19.39.095 Compliance schedule for completion of seismic retrofit.

A. Deadlines.

1. All owners of potentially hazardous soft story buildings shall submit an application for a building permit to carry out the required retrofit in accordance with this chapter no later than two years from the date this requirement becomes law.

2. The retrofit shall be completed no later than three and one-half years after submittal of the application for a building permit.

B. Acceleration of Deadlines. Notwithstanding subdivision A of this section, this deadline shall be accelerated, and the owner shall submit the required application for a building permit within six months and complete the retrofit no later than one and one-half years after submittal of the application for a building permit whenever any one or more of the following occurs:

1. The Building Official determines that the building or any major portion thereof will be reoccupied after being vacant for six months or longer.
2. The building will undergo a remodel, alteration, addition or structural repairs valued at more than \$50,000 per unit, except for repairs found by the Building Official to be required for routine maintenance or emergency purposes.
3. Title to the building is transferred in whole or part or the building is sold to a new owner or owners, except that changes in title due to inheritance or transfers between spouses or registered domestic partners shall not require compliance with this part.
4. Additional financing is obtained which is secured by a deed of trust or mortgage recorded on the title to the building. Financing secured solely to refinance existing debt against the property shall not be considered as additional financing for the purposes of this chapter.

5. The building is identified by the Building Official as an Unsafe Building as defined in Section 203 of the Berkeley Building Code (BMC Chapter 19.28).

C. Hardship Exceptions. The City Manager or the designee thereof may grant an exception to the requirements of this section and extend the deadline for completing all or a part of required seismic retrofit work. An exception may initially extend the deadline for application for a building permit or performance of some or all of required retrofit work by up to one year. The City Manager may grant additional extensions of up to one year each if a continued exception is justified in accordance with the requirements of this section.

Hardship exceptions shall be granted only where the owner submits a written plan to the City for proceeding with the retrofit work, with any exceptions granted, and agrees to fully cooperate with the City in seeking all available financing for the seismic retrofit work and any related relocation. Exceptions granted under this part shall not extend deadlines for correction of any other violations of any other ordinances.

An exception shall be granted only upon submission to the City Manager of a detailed written statement from the building owner requesting the exception, explaining why an exception should be granted and clearly documenting the reasons for the exception in accordance with the requirements of this part.

In order to grant an exception, the City Manager must find that:

1. The building does not present an imminent threat to life safety of occupants or the public, based on a report from a California licensed structural or civil engineer. The City Manager may require partial or interim seismic retrofit work in order to grant an exception;
2. The building owner has complied with all other applicable requirements of this section, including the requirements of Section [19.39.060](#) A and Section [19.38.090](#); and
3. The owner demonstrates one or more of the following conditions:
 - a. Financing is unavailable to pay for the required seismic retrofit work. The owner shall provide the following information as required to determine financial hardship:
 1. Contractors' bids or a professional cost estimate of the seismic retrofit;
 2. Specific information on rents, operating expenses, existing debt against the building, projected rents on the retrofitted building and any other information needed to analyze the ability of the building to support additional debt; and
 3. Statements from lenders that they are unable to provide the needed financing. In determining financial hardship, owners shall be required to apply for any financing the City determines may be available for the retrofit work.

- b. In order to qualify for necessary financing, very low income residential tenants will be required to pay a higher rent and the increased monthly contract rent will be more than 30% of the tenants' income and no subsidy is currently available. For purposes of this part, very low income residential tenants are tenants with incomes below 50 percent (50%) of area median income.
- c. There are unique and exceptional circumstances that have prevented or hindered retrofit.

19.39.100 Twenty-year exemption for retrofitted buildings.

Any building, or any portion of a building that is identified under this chapter as being a potentially hazardous Soft, Weak, or Open Front Story Building and is retrofitted in compliance with the applicable standards or the City of Berkeley Building Code shall not, within a period of 15 years, be identified as a potentially hazardous building because of a Soft, Weak, or Open Front Story pursuant to any local building standards adopted after the date of the building retrofit unless such building no longer meets the standards under which it was retrofitted. (Ord. 6883-NS § 1 (part), 2005)

19.39.110 Public nuisance.

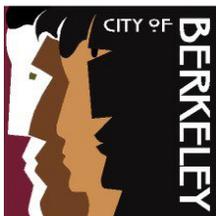
Any building for which the owner fails to file the required analysis of structural seismic adequacy in compliance with Section [19.39.070](#) or fails to comply with Section [19.39.060](#) or fails to comply with any order of the Building Official is hereby declared to be a public nuisance and may be abated pursuant to the procedures set forth in BMC Chapter [1.24](#). (Ord. 6883-NS § 1 (part), 2005)

19.39.120 Remedies cumulative.

Remedies provided by this chapter are cumulative. (Ord. 6883-NS § 1 (part), 2005)

19.39.130 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. (Ord. 6883-NS § 1 (part), 2005)



Berkeley City Council

CONSENT 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

Councilmember Laurie Capitelli, District 5 981-7150
Councilmember Jesse Arreguin, District 4 981-7140



Rent Stabilization Board

DATE: February 24, 2011

TO: Jay Kelekian, Executive Director

FROM: Steve Barton, Deputy Director *SB*
Fatema Crane, Staff Planner *FC*

SUBJECT: Rent Stabilization and Seismic Improvements for Soft Story Properties

Introduction

The City of Berkeley is currently considering moving forward with the second phase of its Soft Story Program, in which owners of residential buildings particularly vulnerable to collapse during an earthquake would be required to reinforce the buildings to prevent their catastrophic collapse. Seismic retrofit costs are generally estimated at \$10,000 per unit. One of the questions raised in these discussions is whether the Rent Stabilization Ordinance or its implementing regulations make it more difficult for owners to retrofit their buildings.

Rent Board staff has collected information on 198 Soft Story properties in order to examine potential financial impediments to meeting the possible retrofit requirements, and whether changes in Rent Stabilization regulations may be necessary.

This report begins with a statement of its major findings, followed by a brief history of the Soft Story Ordinance, a detailed explanation of the study and an analysis of the study results. Attachment A: "Debt Coverage Study for 198 Soft Story Properties," lists the information collected for the study, computations and relevant statistics. Attachment B: Soft Story Timeline lists some of the major events in the City's consideration of this issue.

Key Findings

The most serious potential barrier to seismic upgrade is the situation in which the owner of a building has already taken out mortgage financing to the maximum extent possible and has no further ability to borrow funds to do seismic reinforcement. This situation will most likely be found in some of the 27% of the buildings (54 of 198) that the owner purchased during 2003 to 2008, the peak period of the recent housing bubble, or where the owner refinanced the building to take out equity based on the property's value during this period. In most of these cases the rents are already at or close to market due to tenant turnover and vacancy decontrol. Changes in rent regulation can do little or nothing to assist owners in such a situation.

Overall only 18% of tenancies in soft-story buildings began before pre-vacancy decontrol, so most tenants are paying rents that are at or close to current market rates. In 5% of the soft-story properties (10 of 198) all or most units have rents significantly below market because the tenants have been in place since before vacancy decontrol. All but one of these buildings have been under long-term ownership and have appreciated substantially in value over their initial purchase price, if only because potential buyers can reasonably anticipate tenant turnover and substantially increased rents at some point in the future. In these buildings, under the regulations governing individual rent adjustments for capital improvements the owners will likely qualify for a rent increase sufficient to cover the costs of the retrofit, thus passing all or part of the cost on to the tenants, and they should be able to borrow the necessary amount. Sources of assistance will be needed for very low-income tenants who may be severely affected by such capital improvements increases.

The majority of buildings listed as potentially hazardous have been owned since before 2003 and have only a minority of the units occupied by long-term tenants with below-market rents. These owners have substantial equity in their properties and have the ability to raise the necessary funds without passing the cost on to the tenants except in those cases where the owners have refinanced to take out equity and have borrowed to the maximum extent possible with current rents. Potentially, the rents on the one-fifth of the units that are substantially below-market rate could be increased to pay for all or part of the retrofit costs. This approach would raise equity issues, since it would be a financial burden on a predominantly low-income group of tenants.

The Soft Story Ordinance

The Soft Story Ordinance, Berkeley Municipal Code 19.39, identifies wood frame buildings with four units or more that have weak ground floor support systems that could sustain serious damage during an earthquake. City Council adopted Phase 1 of the Soft Story ordinance in 2005 and established a list of 371 Soft Story properties where seismic improvements should occur.

Phase 1 requires owners of buildings on the list to notify their tenants and conduct an engineering study to establish a plan for reinforcement to remove it as a hazard. Phase 2 of the Soft Story Ordinance is presently under consideration and will likely include retrofit requirements within a mandatory time frame and penalties for non-compliance. Since that time approximately 100 of these properties have been seismically retrofitted or have demonstrated that they are not hazardous.

Overview of Study

Rent Board staff examined data on those properties that are currently on the soft-story list and have not yet either taken out building permits for or completed seismic retrofit work. The properties on the list include properties where the owner has conducted the engineering study required by Phase 1 and properties where the owner has not yet filed the required study.

Previous staff reports to City Council describe retrofits as costing anywhere from \$2,000 to \$10,000 per unit, with the high end cost taken from a study in San Francisco. The June 10, 2009 report to the 4 X 4 Committee reported that in Berkeley 48 retrofit permits had been granted up to that time, with a median cost per unit of \$2,500 and a mean cost per unit of \$3,280. It is likely that work has been done soonest in many buildings where the costs are lowest. It is also possible that some of the work does not fall under the permit or that staff have undervalued some of the work in order to facilitate the retrofit.

The study establishes a standard model to examine whether the financial standing of these properties would allow the owners to borrow up to \$10,000 per unit for a seismic retrofit under a typical set of circumstances.

Our review of soft story properties covers 198 properties with a status of “Out of Compliance,” “Report in Review,” or “Report Approved” at the end of the third quarter in 2010. These properties contain a total of 2,020 units. Properties that have completed a retrofit or have taken out permits for a retrofit are not included. Fraternities, sororities, hotels and motels in these categories were excluded from this study which focuses on conventional multi- unit rental properties.

Data for each property includes sale price or assessed value from the Alameda County property records, and from the Berkeley Rent Program records the rent ceiling for each unit and whether units have turned over since vacancy decontrol. Where a unit is exempt because it is occupied by a tenant receiving rental assistance we have used the Berkeley Housing Authority payment standard less a \$100 utility allowance in place of the rent ceiling.

For purposes of analysis we applied a standard model to each property. We assume that Net Operating Income (NOI) is 60% of the total rent collectible under the rent ceiling or payment standard less utility allowance. We assume a 30 year mortgage at an interest rate of 6.0% on 60% of the sales price or assessed value. We further assume that in order to do the seismic retrofit the owner will need to borrow the money and that the loan will be amortized over a 15 year period at an interest rate of 7.5%, as permitted under the Rent Stabilization Program Regulation 1267.E(1) "Capital Improvements: Major Long-Term Repairs". **Each \$1,000 borrowed under this provision requires repayment at a monthly rate of \$9.27.** We then assume that the owner will need to borrow the maximum estimated amount of \$10,000, with a repayment amount of \$92.70 per unit per month.

Normally, lenders will require that all loan payments add up to no more than 80% of the NOI, or put another way, that the NOI is equal to at least 125% of the amount of the annual loan payments. The ratio of NOI to loan payments is called the debt coverage ratio (DCR) and if NOI is 125% of payments the DCR is 1.25. If the DCR is below 1.25 then the owner is likely to have difficulty borrowing additional funds for the retrofit.

Since the study is based on a standardized model rather than on the actual financial data for each property, we grouped the properties and used the averages for each grouping. The key indicators of potential problems are whether debt coverage ratio for the group as a whole falls below 1.25 and whether a substantial proportion of individual properties within the group have an estimated DCR below 1.25 even though the group's average is higher.

Table 1. Characteristics of Properties

	Properties	Percentage of Study	Units	Percentage of Study
Properties Studied	198	100%	2020	100%
Properties with DCR less than 1.25	35	18%	356	18%
Properties Sold between 2003 and 2010	60	30%	679	34%
Properties with > 50% "old tenancies"	10	5%	92	5%
Properties with majority decontrolled tenancies	184	93%	1,898	94%
Total Number of De-Controlled Units	-	-	1,653	82%
Total Number of Controlled Units	-	-	367	18%

Study Results

The study model generates a DCR below 1.25 for 35 of the 198 Soft Story properties in this study (18%), suggesting that a substantial minority of these properties could have difficulty qualifying for an additional loan to do a retrofit.

This problem group is almost entirely located among the properties purchased most recently. Of the 35, 30 were purchased between 2003 and 2008, 56% of the 54 soft-story properties sold during that period. Three more were among the six purchased in 2010. The model generates an average DCR of 1.31 for properties purchased from 2003 to 2010.

Table 2. Subgroup of properties with DCR less than 1.25

	Properties	Percentage of Subgroup	Units	Percentage of Subgroup
Properties with DCR less than 1.25	35	100%	356	100%
Properties Sold between 2003 and 2010	33	94%	343	96%
Properties with majority decontrolled tenancies	34	97%	348	98%
Properties with 50% "old tenancies"	1	3%	8	3%

The average DCR for the small group of 10 properties with more than half old tenancies is 2.44 while the average for the entire group is 2.69. These comparable figures suggest that properties with many old tenancies are no more or less financially burdened than others in this survey.

There is no apparent correlation between the estimated DCR and whether the properties are in or out of compliance with the ordinance. There is also no apparent correlation between the number of pre-1999 tenancies, or "old tenancies," and levels of non-compliance. We will try to review similar data for the properties that have already carried out retrofits, but at present compliance appears to be determined by the individual owner rather than reflecting characteristics of the property.

Two-thirds of properties in this study (66%) were purchased before 2000 and the value of these properties has generally increased substantially as a result of the major rent increases allowed by vacancy decontrol, with 82% of all units turning over since 1999. This is a substantial change from the previous study in 2002, when only 54% of the units had received a vacancy increase. Unless the owners of these properties refinanced and took out most of their equity gains for other purposes, they have substantial borrowing capacity.

The study suggests the following conclusions:

- 1) The strongest indicator of potential financial hardship for non-compliant Soft Story properties is a date of purchase between 2003 and 2008 and not current rent levels or proportion of pre-1996 rental tenancies.
- 2) The group of 10 properties in which the majority of tenancies date from before vacancy decontrol do not show indications of financial stress and are eligible for capital improvements increases on an individual basis.
- 3) Owners of two thirds of the properties have held them long enough to gain substantial increases in value due to vacancy decontrol and will only have difficulties in qualifying for loans if they refinanced to take out additional equity during the housing bubble.

Further Study

Staff will soon begin a second study of the City's Soft Story sites, by way of comparison, that applies a similar model of analysis to the approximately 100 properties that have been seismically retrofitted as prescribed by the Ordinance in order to compare the two groups of properties.

Attachments

- A. Spreadsheet, "*Debt Coverage Study for 198 Soft Story Properties.*" January 24, 2011
- B. Soft Story Issue Timeline (Partial)

Debt Coverage Study for 198 Soft Story Properties

January 24, 2011

*Greater than 50% Old Tenancies

	Soft Story Ordinance Status 3rd Quarter 2010	Total Units	% Old Tenancies	Average Rent	LM Sale Date	Sale Price	Taxation Value in lieu of Sale Price	Debt Coverage Ratio with seismic upgrade	Debt Coverage 1.25 or less? Yes=1	Debt Coverage Ratio w/o seismic upgrade	Debt Coverage 1.25 or less? Yes=1
1	report approved; but	8	0	1,186.92	1998	1,000,000		1.29			
2	out of compliance	7	0	1,174.95	1986	450,000		2.36			
3	out of compliance	7	0	1,495.92	2010	860,000		1.63			
4	out of compliance	24	0	1,722.99	2008	3,200,000		1.78			
5	out of compliance	9	0	1,334.89	1992		460,880.00	2.86			
6	out of compliance	16	13	816.96	1981	300,000		3.04			
7	out of compliance	5	0	1,556.37	2005	1,145,000		1.00	1	1.11	1
8	out of compliance	6	17	1,010.65	1966		98,451.00	3.31			
9	out of compliance	6	0	1,428.35	2001	674,500		1.70			
10	out of compliance	3	33	1,321.45	2001	250,000		1.99			
11	out of compliance	8	0	1,163.50	1991		196,795.00	3.82			
12	out of compliance	10	10	1,690.14	2004	2,000,500		1.23	1	1.38	
13	out of compliance	6	33	1,299.44	2004	975,000		1.13	1	1.31	
14	out of compliance	6	33	1,264.74	2005	720,000		1.42			
15	out of compliance	10	0	1,635.22	1988	430,000		3.92			
* 16	out of compliance	8	63	964.04	1986		333,853.00	2.35			
* 17	out of compliance	8	63	969.35			160,753.00	3.50			
18	out of compliance	12	0	1,149.75	1995		995,018.00	1.74			
19	out of compliance	11	45	884.09	1985	635,000		1.74			
20	out of compliance	11	0	1,474.50	1985	635,000		2.91			
21	out of compliance	24	13	894.67	2003	2,360,000		1.18	1	1.49	
22	out of compliance	10	0	2,030.00		144,526		8.36			
23	out of compliance	10	30	1,323.57	2005	1,900,000		1.01	1	1.14	1
24	out of compliance	10	0	1,404.80	1994	1,095,000		1.71			
25	out of compliance	7	14	1,430.27	1998	460,000		2.57			
26	out of compliance	9	22	1,324.91	2005	1,100,000		1.47			
27	out of compliance	11	27	1,267.69			480,863.00	3.01			
28	out of compliance	7	14	1,271.09	2005	1,292,500		0.99	1	1.13	1
* 29	out of compliance	6	67	651.69			140,586.00	1.82			
30	out of compliance	8	38	1,155.99	1999	24,500	510,647.00	2.12			
31	out of compliance	18	17	1,218.42			340,219.00	4.51			
* 32	out of compliance	4	100	632.79	1968		107,318.00	1.99			
33	out of compliance	20	15	995.29	1992		1,308,410.00	1.80			
34	out of compliance	12	8	1,248.93	1979	195,500		4.92			
35	out of compliance	6	33	732.53	1978	100,000		2.86			
36	out of compliance	8	0	0.00				0.00			
37	report approved	5	0	1,098.96	1993		119,248.00	3.66			
38	report approved	10	0	1,353.33	1984		162,572.00	4.80			
39	report approved	6	0	1,069.44	1989	153,000		3.45			
40	report approved	5	0	1,201.13	1969		88,464.00	4.57			
41	report approved	5	0	1,299.42	2005	730,000		1.24	1	1.46	
42	report approved	6	0	1,432.30	2004	1,080,000		1.14	1	1.30	
43	report approved	8	25	1,192.52			807,927.00	1.55			
* 44	report approved	5	60	690.60			116,315.00	2.33			
45	report approved	8	13	1,231.18			159,219.00	3.90			

Debt Coverage Study for 198 Soft Story Properties

January 24, 2011

*Greater than 50% Old Tenancies

	Soft Story Ordinance Status 3rd Quarter 2010	Total Units	% Old Tenancies	Average Rent	LM Sale Date	Sale Price	Taxation Value in lieu of Sale Price	Debt Coverage Ratio with seismic upgrade	Debt Coverage 1.25 or less? Yes=1	Debt Coverage Ratio w/o seismic upgrade	Debt Coverage 1.25 or less? Yes=1
46	report approved	8	38	1,151.08	2003	1,000,000		1.25			
47	report approved	16			1991	175,000		0.00			
48	report approved	9	0	1,719.11	1999	396,000		2.26			
49	report approved	7	29	997.37	1987	215,000		2.91			
50	report approved	8	13	1,066.46	2006	1,350,000		0.90	1	1.03	1
* 51	report approved	10	60	717.77			137,620.00	3.01			
52	report approved	10	20	1,288.98			265,524.00	4.07			
53	report approved	7	14	907.21			248,864.00	2.44			
54	report approved	7	29	1,498.83	2003	913,500		1.57			
55	report approved	6	50	984.14	1998	425,000		1.68			
56	report approved	6	17	1,278.50	1989	282,909		2.89			
57	report approved	12	0	1,001.44			230,591.00	3.07			
58	report approved	9	11	1,488.92			513,350.00	2.96			
59	report approved	6	0	1,203.05	1994	260,000		2.87			
60	report approved	15	33	997.77	2010	1,575,000		1.25			
61	report approved	18	0	1,238.68	2006		2,091,307.00	1.43			
62	report approved	9	22	1,256.43	2002	1,100,000		1.39			
63	report approved	7	0	1,717.12	2004	456,000	996,579.00	1.68			
64	report approved	7	29	1,572.64	2004	107,500	750,739.00	1.94			
65	report approved	6	33	1,159.11	1983	220,000		3.06			
66	report approved	5	40	870.36	2010	680,000		0.88	1	1.05	1
67	report approved	22	27	1,123.69	1996	1,325,000		2.15			
68	report approved	6	0	2,061.02	1994	95,000		8.20			
69	report approved	5	20	1,132.89	1996	175,500		3.07			
70	report approved	13	23	933.24	1999	1,210,000		1.29			
71	report approved	7	43	835.50	1995	270,000		2.14			
72	report approved	7	0	1,024.25	1978	121,000		3.94			
73	report approved	8	13	1,426.99	2007	1,250,000		1.29			
74	report approved	24	17	1,302.08	2004		3,346,150.00	1.29			
75	report approved	12	17	1,382.21	2003	750,000		2.58			
76	report approved	5	0	1,352.28	1986	160,000		3.86			
77	report approved	8	0	1,373.28	1999	530,000		2.46			
78	report approved	15	0	2,281.78	2003	2,600,000		1.88			
79	report approved	20	15	1,191.97	2007	2,630,000		1.24	1	1.48	
80	report approved	6	0	1,900.11	2005	907,000		1.76			
* 81	report approved	19	53	866.78	1991	140,000		4.34			
82	report approved	22	0	1,480.68	1993		1,074,743.00	3.27			
83	report approved	5	0	1,523.65	2005	945,000		1.16	1	1.32	
84	report approved	14	7	1,278.35	2002	1,400,000		1.67			
85	report approved	9	0	1,276.90	1988	338,000		3.33			
86	report approved	10	20	1,138.00	2007	1,400,000		1.13	1	1.33	
87	report approved	19	26	1,168.17	2006	2,450,000		1.24	1	1.48	
88	report approved	12	17	1,112.72	2004	1,900,000		0.99	1	1.15	1
89	report approved	10	0	1,012.21	1992		428,266.00	2.43			
* 90	report approved	7	71	801.97			197,063.00	2.46			

Debt Coverage Study for 198 Soft Story Properties

January 24, 2011

*Greater than 50% Old Tenancies

	Soft Story Ordinance Status 3rd Quarter 2010	Total Units	% Old Tenancies	Average Rent	LM Sale Date	Sale Price	Taxation Value in lieu of Sale Price	Debt Coverage Ratio with seismic upgrade	Debt Coverage 1.25 or less? Yes=1	Debt Coverage Ratio w/o seismic upgrade	Debt Coverage 1.25 or less? Yes=1
91	report approved	10	20	1,155.28			258,265.00	3.70			
92	report approved	7	0	1,362.40	1986	260,000		3.57			
93	report approved	7	0	1,355.08			177,663.00	4.38			
94	report approved	12	8	1,141.19			195,787.00	4.49			
95	report approved	6	0	No Data	1990	220,000		0.00			
96	report approved	8	25	908.71	1994		164,246.00	3.25			
97	report approved	40	5	987.22			413,052.00	4.54			
98	report approved	14	7	1,383.37			471,403.00	3.84			
99	report approved	5	0	1,587.71	2010	923,000		1.24	1	1.41	
100	report approved	7	14	2,057.65	2004	1,950,000		1.11	1	1.21	1
101	report approved	9	11	1,482.46	1995	675,000		2.42			
102	report approved	9	22	1,275.82	2003	1,350,000		1.19	1	1.39	
103	report approved	8	38	921.22			118,795.00	3.76			
104	report approved	13	38	1,952.82	2004		3,235,109.00	1.17	1	1.28	
105	report approved	29	0	1,526.81	2008	4,330,000		1.43			
106	report approved	11	27	1,557.53	1996	740,000		2.75			
107	report approved	7	29	769.78			129,282.00	2.88			
108	report approved	10	40	1,057.48			202,253.00	3.04			
109	report approved	10	40	953.07	1996	540,000		1.97			
110	report approved	5	0	1,519.77	1999	550,000		1.84			
111	report approved	8	38	1,193.75			207,764.00	3.81			
112	report approved	19	37	937.35	2004	2,350,000		1.03	1	1.24	1
113	report approved	5	40	812.80	1997	250,000		1.77			
114	report approved	9	22	807.34	1978	52,500		4.25			
115	report approved	7	29	1,042.59	2004	700,000		1.36			
116	report approved	5	40	1,091.69	1987	167,000		3.04			
117	report approved	8	0	1,424.72			220,735.00	4.41			
118	report approved	14	21	1,203.05	2005	1,850,000		1.25			
119	report approved	7	0	1,135.22			127,067.00	3.67			
120	report approved	8	13	1,007.12	1995		157,246.00	3.21			
121	report approved	6	17	1,083.19	2005	1,000,000		0.92	1	1.06	1
122	report approved	34	15	1,075.56			656,575.00	3.95			
123	report approved	20	15	1,066.65	1992	860,000		2.56			
124	report approved	10	20	1,645.69	1995		334,823.00	4.58			
125	report approved	10	40	808.87	1967		253,255.00	2.62			
126	report approved	10	40	933.25			405,818.00	2.32			
127	report approved	16	19	1,016.63	2005	2,100,000		1.06	1	1.27	
128	report approved	8	0	1,300.06	1992		182,071.00	4.43			
129	report approved	8	50	1,302.02	1965		188,409.00	4.36			
* 130	report approved	14	100	581.90			315,206.00	1.99			
131	report approved	6	0	1,647.95	2004		1,585,566.00	0.93	1	1.02	1
132	report approved	8	50	1,280.63	1998	395,500		2.45			
133	report approved	5	20	1,110.67			101,619.00	3.99			
134	report approved	6	17	1,255.59	1994	278,000		2.87			
135	report approved	13	15	805.87	2003	1,275,000		1.07	1	1.34	

Debt Coverage Study for 198 Soft Story Properties

January 24, 2011

*Greater than 50% Old Tenancies

	Soft Story Ordinance Status 3rd Quarter 2010	Total Units	% Old Tenancies	Average Rent	LM Sale Date	Sale Price	Taxation Value in lieu of Sale Price	Debt Coverage Ratio with seismic upgrade	Debt Coverage 1.25 or less? Yes=1	Debt Coverage Ratio w/o seismic upgrade	Debt Coverage 1.25 or less? Yes=1
136	report approved	5	20	614.55			385,218.00	0.79	1	1.04	1
137	report approved	17	18	1,325.88	2008	2,550,000		1.24	1	1.45	
138	report approved	7	14	1,302.69	1994	170,000		4.30			
139	report approved	5	0	1,380.00			116,342.00	4.65			
140	report approved	18	28	1,146.72	1995		355,723.00	4.17			
141	report approved	5	20		1994	285,000		2.93			
142	report approved	10	40	764.09			456,054.00	1.76			
143	report approved	7	0	797.47	1989		505,403.00	1.34			
144	report approved	10	40	812.75			153,156.00	3.28			
145	report approved	5	40	824.23	2007	3,750,000		0.17	1	0.18	1
146	report approved	6	33	1,101.32	2002	200,000	497,976.00	1.66			
147	report approved	6	0		1966		182,867.00	5.60			
148	report approved	12	17	1,422.26	1988	233,000		5.21			
149	report approved	7	43	1,147.66	1991	394,000		2.30			
150	report approved	5	0	1,368.77			107,462.00	4.79			
151	report approved	5	20	1,384.13	2000		278,777.00	2.79			
152	report approved	18	39	1,263.42	2007	2,550,000		1.24	1	1.46	
153	report approved; bu	9	11	1,720.81	1999	965,000		2.13			
154	report in review	5	20	1,126.23			87,944.00	4.30			
155	report in review	10	30	1,210.74			246,748.00	3.97			
156	report in review	12	0	1,606.07	1994		392,350.00	4.53			
157	report in review	9	0	0.00	2004		265,414.00	0.00			
158	report in review	6	17	1,311.60	2005	720,000		1.48			
159	report in review	10	0	1,432.00	2006		1,302,075.00	1.51			
160	report in review	5	0	2,816.00	2010	1,350,000		1.56			
161	report in review	5	0	1,016.00	1988	87,000		3.90			
162	report in review	36	14	828.84	1996	1,050,000		2.49			
163	report in review	24	0	1,214.00	2004	2,450,000		1.56			
164	report in review	7	0	2,257.14			280,247.00	5.65			
165	report in review	19	16	1,032.64	2010	2,515,000		1.07	1	1.28	
166	report in review	17	0	942.08	2002		1,433,169.00	1.41			
167	report in review	12	42	859.15	1996	370,000		2.51			
168	report in review	12	17	870.01	1986	7,500		5.04			
169	report in review	13	8	1,465.33			415,609.00	4.19			
170	report in review	11	0	1,250.24	2003	1,675,000		1.15	1	1.34	
171	report in review	12	0	1,408.97			314,719.00	4.48			
172	report in review	17	35	983.26	1990		334,870.00	3.58			
173	report in review	9	0	1,341.73	2006	1,415,000		1.20	1	1.40	
174	report in review	8	13	1,564.62	1986	259,000		4.44			
175	report in review	15	27	1,415.36	1977	171,000		6.31			
176	report in review	8	13	2,213.08	2005	1,976,000		1.33			
177	report in review	14	7	1,501.64	2004	2,100,000		1.40			
178	report in review	5	0	1,983.40	2004	1,300,000		1.14	1	1.25	
179	report in review	6	0	1,410.70			149,686.00	4.60			
180	report in review	8	0	1,313.00	2000	1,310,000		1.14	1	1.31	

Debt Coverage Study for 198 Soft Story Properties

January 24, 2011

*Greater than 50% Old Tenancies

	Soft Story Ordinance Status 3rd Quarter 2010	Total Units	% Old Tenancies	Average Rent	LM Sale Date	Sale Price	Taxation Value in lieu of Sale Price	Debt Coverage Ratio with seismic upgrade	Debt Coverage 1.25 or less? Yes=1	Debt Coverage Ratio w/o seismic upgrade	Debt Coverage 1.25 or less? Yes=1
181	report in review	8	50	1,087.30	2005	1,365,000		0.91	1	1.04	1
182	report in review	21	0	1,218.81	2007	1,550,000		2.01			
183	report in review	16	25	860.51	2003	465,000		2.59			
184	report in review	5	0	1,289.20	2005	750,000		1.20	1	1.41	
185	report in review	5	0	1,189.95			128,641.00	3.82			
186	report in review	10	10	1,217.04	1988	4,000		7.75			
187	report in review	24	13	970.50	1997	960,000		2.43			
188	report in review	5	20	836.77			223,650.00	1.96			
* 189	report in review	8	100	634.65			437,057.00	1.30			
190	report in review	7	14	1,343.61			199,978.00	4.08			
191	report in review	6	17	984.68	1989		121,422.00	3.54			
192	report in review	11	27	815.86	2002	720,000		1.47			
193	report in review	8	50	936.46			207,645.00	2.99			
194	report in review	6	17	1,083.92	1994	213,000		2.92			
195	report in review	5	40	1,150.03			295,352.00	2.23			
* 196	report in review	10	100	520.54	1961		227,553.00	1.77			
197	report in review	11	9	1,124.40	1986		488,801.00	2.64			
198	report in review	9	0	1,317.45	1996	800,000		1.89			

Total Number of Units: 2020

Number of properties with Debt Coverage Ratios less than 1.25:

35

13

Average Debt Coverage Ratio for 194 Properties:

2.62

Average Debit Coverage Ratio for properties purchased btw 2010 and 2003:

1.31

Average Debit Coverage Ratio for properties purchased btw 2002 and 1996:

2.09

Average Debit Coverage Ratio for properties purchased in 1995 or before:

3.52

Average Debt Coverage Ratio for 10 Properties with more than 50% Old Tenancies:

2.44

Average Debt Coverage Ratio for 4 Properties with 100% Old Tenancies:

1.76

Total Number of Units:

2,020

Number of Controlled Units:

367

Number of De-Controlled Units:

1,653

Percentage of 2020 Unit that are Controlled:

18

Percentage of 2020 Units that are De-Controlled:

82

Partial History of the City's Soft Story Program

In 1996 the City of Berkeley did a preliminary study of potential soft story buildings, finding 400 buildings with about 5,000 units.

In 2001 the City of Berkeley did a follow-up study confirming that most of these buildings were potentially vulnerable to an earthquake.

In 2001, 2002, 2003 City staff presented a slide show on the issue to commissions and civic organizations.

In February 2003 the City Council considered a recommendation from the Disaster Council that the City pass a Soft Story Ordinance similar to the Unreinforced Masonry Ordinance.

In Fall 2004 the Rent Board newsletter, which goes to all owners, carried a front page story on the issue describing the proposed Phase I (notification and required engineering studies) and Phase II (implementation) and asked owners for their suggestions.

In October 2005 the City Council passed the Phase I Soft Story Ordinance.

In January 2006 the City sent notification of the requirements of the ordinance to all owners of property on the soft story list.