



Berkeley “Soft-Story” Update: More City-Imposed Burden

On February 24th, 2005 the Mayor of Berkeley hosted “A Hard Look At Soft Story Buildings”. This meeting was to “involve the community” in addressing these “Soft Story” Buildings.

What is a “Soft Story” building and what is all the fuss about?

The Northridge Earthquake is one of the disasters that invokes a lot of discussion about “Soft Stories”. A “soft story” is generally a ground floor level in an apartment building where there is a large portion of space without robust walls or support. As you look at 60s and 70s construction there are a lot of buildings with “tuck-under” parking. Instead of being parked in a walled-in space, cars are parked in an open shelter, over which apartments are built directly overhead, supported only by small posts.. Pictures from the Northridge Quake show 4 story buildings where the first story is completely collapsed after the temblor.

This threat to life and limb is obvious, and should be addressed, but the city has gone to its usual method of extorting Landlords for the entire bill: all sticks and no carrots.

Several interested parties and I met with the city to discuss various proposals regarding soft-stories.

The city specifically asked what we might do to encourage Landlords to upgrade their soft-story buildings and make them more safe. The details of their proposals are not yet set in stone, but we all came away with a few objections. Namely, that the cost of upgrading buildings should not be borne entirely by owners, and that in general we should not be forced to upgrade anything without some type of return on the increased investment. It is important to note that this type of soft-story construction was perfectly legal and up to code at the time. Moreover, rents that reflect an adequate return on current investment might well be inadequate if thousands more are required in order to conform to the new rules. As we put forth numerous creative ideas of how to protect tenants from an earthquake while avoiding putting small landlords out of business, the response from the two city employees was predictable, systematic, and consistent. My synopsis is: we see your point, but we can’t and won’t give you any hard dollars.

By their own calculations the proposal to “inspect” soft-story buildings would affect about 5000 units in roughly 500 buildings. Landlords will be forced to pay several

thousand dollars out of their pockets for an engineer's report—even where the report comes back showing a completely safe building. The city will provide a timeline after which they will lien a property and impose either fines or penalties in the event of a failure to inspect. You may fairly ask why landlords must pay for inspections when they have already paid disproportionate business license fees and property taxes in order to support such functions, but that is another issue.

Then there is the implied next step. Once unsafe buildings are identified, the city will almost certainly force landlords to fix those buildings at a cost of \$10,000 to perhaps \$200,000 or more.

There was a similar Un-reinforced Masonry Ordinance years ago where not only did the city force inspections and subsequent retrofits, but once “unsafe” buildings were identified the owner was forced to put up a notice to tenants that the building was potentially unsafe, hurting their ability to rent. This expense would be added to the costs of a follow-up after completion of the required retrofit work.

What can you do? What should you do? Inform yourself and write articulate but reasonable articles, show up to city counsel and other relevant meetings, and politely contact the city or Dan Lambert who is the *Project Manager for this issue*: 981-7406.

This is a scary foreshadowing of the type of nightmare city inspections can blossom into in any city.

Please keep in mind that my area of expertise is Real Estate Brokerage. The tax consequences, exchange validity, accounting rules and legality of various strategies are best discussed with the appropriate professional. I have several that I will be happy to recommend. If you missed last month's installment, you may contact me for a copy of the last issue.

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