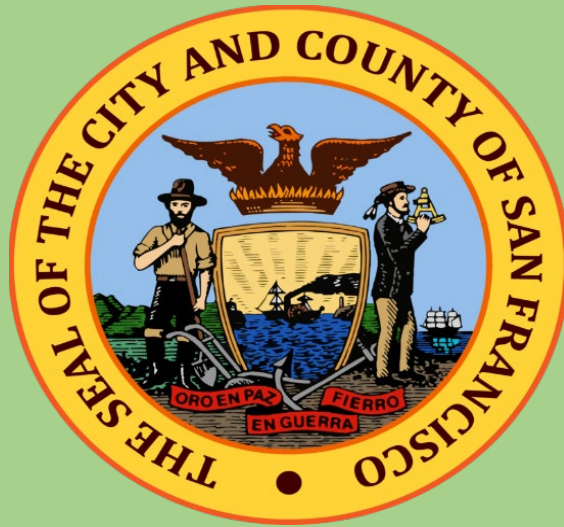




SAN FRANCISCO BOARD OF APPEALS DRAFT ANNUAL REPORT FY26



FY26 BOARD OF APPEALS ANNUAL REPORT FOR CONSIDERATION AT THE SEPTEMBER 23, 2026
HEARING

MISSION

To provide an efficient, fair and expeditious public hearing and decision-making process before an impartial panel.

- Created in 1932 under the San Francisco Charter
- Quasi-judicial body
- Provides the final administrative review for a wide range of City determinations
- Appeals may be taken on decisions to grant, deny, suspend, revoke or modify permits, licenses, and other use entitlements issued by most of the departments, commissions and other entities of the City and County of San Francisco



BOARD MEETINGS



- Open to the public and broadcast on the City’s government television channel and on the Board’s website¹
- Held on Wednesdays starting at 5:00 p.m. Participants can attend in-person at City Hall or remotely via Zoom
- Conducted in accordance with the Rules of the Board of Appeals
- Closed-captioned on TV
- Meeting agendas, minutes, and appellants’ and respondents’ briefs and other materials associated with the cases heard are posted on the Board’s website²

¹SFGovTV: http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6

²www.sfgov.org/boa

Volume of Hearings Over the Years

Fiscal Year	Number of Meetings	Total Hours
FY26	24	82
FY 25	24	57
FY 24	28	108
FY 23	29	90
FY 22	29	84
FY 21	29	78
FY 20	25	96
FY 19	30	89
FY 18	29	105
FY 17	31	80

From FY17 through FY26, the Board had an average of 28 meetings per year and spent an average of 87 hours per year conducting hearings.

BOARD MEMBERSHIP IN FY26

The five-member Board is comprised of three members appointed by the Mayor and two by the President of the Board of Supervisors. All appointments are to staggered, four-year terms and require approval by the Board of Supervisors. John Trasviña served as President of the Board. J.R. Eppler served as Vice President from July to August 2025, Jose Lopez served as Vice President from August 2025 to January 2026, and Rebecca Saroyan served as Vice President from January 2026 through the remainder of FY26).

Commissioner	Appointing Authority	Original Appointment Date	Term Expires
Seat 1: <i>Rick Swig</i>	Board of Supervisors	April 2, 2015 ³	July 1, 2028 (voluntarily resigned December 31, 2025)
<i>Lily Wong</i>	Board of Supervisors	April 7, 2026	July 1, 2028 (filling the remainder of Rick Swig's term)
Seat 2: <i>J.R. Eppler</i>	Board of Supervisors	September 27, 2022	July 1, 2026 (voluntarily resigned August 22, 2025)
<i>Robin Abad Ocubillo</i>	Board of Supervisors	December 2, 2025	July 1, 2030 ⁴
Seat 3: Jose Lopez	Mayor	July 27, 2021	July 1, 2028 ⁵
Seat 4: John Trasviña	Mayor	July 28, 2022	July 1, 2030 ⁶
Seat 5: Rebecca Saroyan	Mayor	May 21, 2025	July 1, 2028 ⁷

³ For FY16-FY20, Commissioner Swig was an appointee of the President of the Board of Supervisors. For FY21-FY24, he was an appointee of Mayor London Breed. In FY25, Board of Supervisors' President Peskin appointed Commissioner Swig to serve through July 1, 2028 (filling the seat formerly occupied by Commissioner Alexis Levy (formerly known as Alex Lemberg)).

⁴ Commissioner Abad Ocubillo was initially appointed by President Mandelman to fill the remainder of J.R. Eppler's term which expired on July 1, 2026 (Commissioner Eppler served as a holdover until he resigned). President Mandelman reappointed Commissioner Abad Ocubillo to serve through July 1, 2030.

⁵ Mayor London Breed appointed Commissioner Lopez to complete the term of former Commissioner Eduardo Santacana, who voluntarily resigned on April 14, 2021. In FY25, Mayor Breed reappointed Commissioner Lopez to serve through July 1, 2028.

⁶ Mayor Breed initially appointed Commissioner Trasviña for a term ending July 1, 2026. Mayor Daniel Lurie reappointed him for a term ending on July 1, 2030.

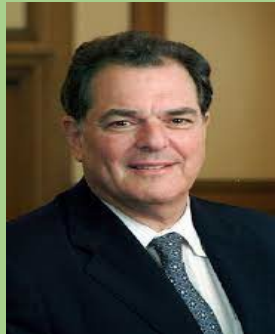
⁷ Mayor Daniel Lurie appointed Commissioner Saroyan (effective May 21, 2025) to fill the vacant seat previously occupied by Commissioner Swig when he was a mayoral appointee. Vice President Saroyan's term ends on July 1, 2028.



From Left to Right: Jose Lopez, John Trasviña, Rebecca Saroyan, Robin Abad Ocubillo, and Lily Wong



J.R. Eppler

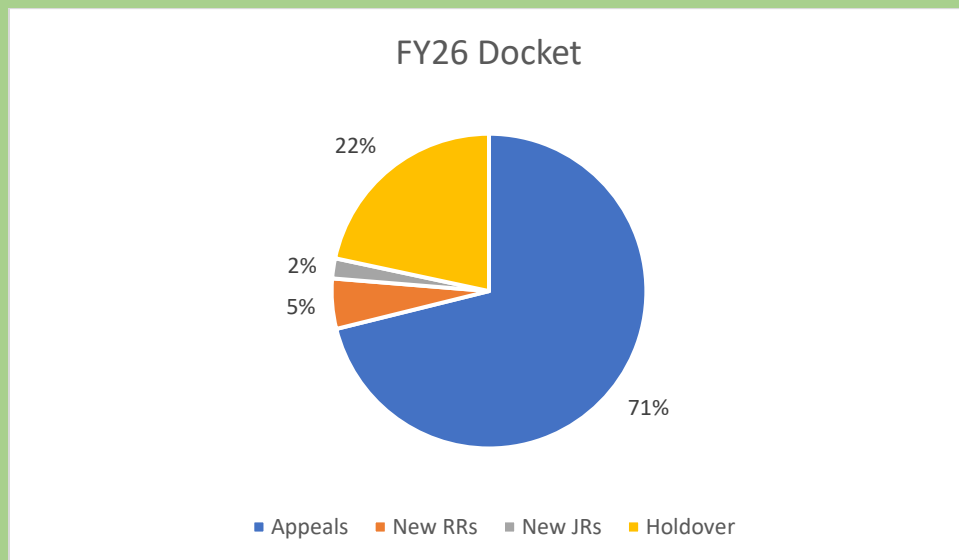


Rick Swig

APPEAL EXPERIENCE

97 matters were on the Board's docket during the year:

- New matters filed:
 - 69 appeals
 - 5 rehearing requests (RRs)
 - 2 jurisdiction requests (JRs)
- 21 pending or continued matters were carried forward from prior years (19 appeals and two JRs)



57 matters were decided by the Board:

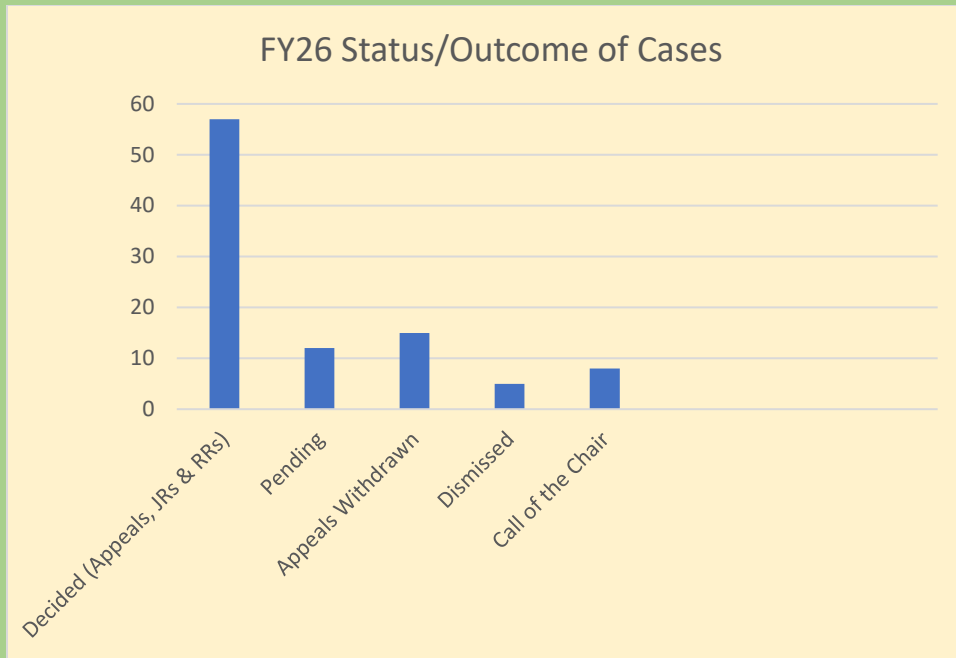
- 51 appeals
- 3 rehearing requests
- 3 jurisdiction requests

38 matters were not heard:

- 9 pending appeals and will be heard in FY27⁸
- 15 appeals were withdrawn
- 9 appeals remained or were placed on Call of the Chair (these appeals do not have a scheduled hearing date)
- 5 appeals were dismissed prior to the hearing date⁹

⁸ Pending appeals for the purpose of this report are those that had scheduled hearing dates (on this report the 9 pending appeals were scheduled to be heard in FY27) and were not decided/resolved in FY26. These are the cases “pending” at the end of the fiscal year. The pending appeals do not include cases that are on the Call of the Chair.

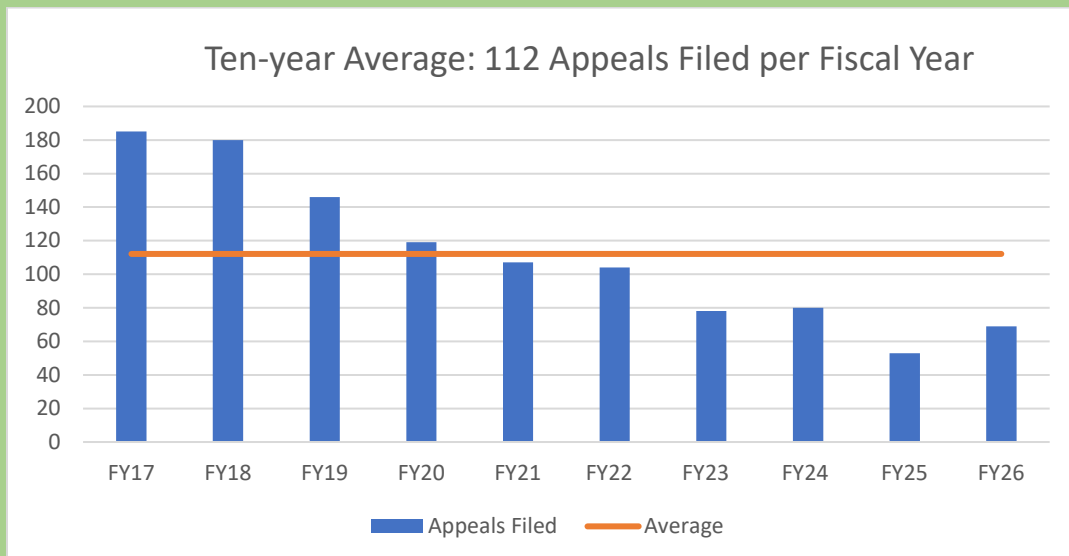
⁹ Article V, Section 11 of the Board Rules mandates that the Executive Director administratively dismiss any appeal for which the underlying subject matter has become moot as a matter of law. In FY26, the following appeals were dismissed: Appeal No. 25-037 was dismissed since the permit that was appealed was canceled by the permit holder; Appeal No. 25-054 was dismissed because the fence that was the subject of the variance decision that had been appealed was on public property (and therefore not subject to the variance requirements); Appeal Nos. 26-022, 26-023 and 26-025 were initially accepted, however, after a review of the record, the Executive Director determined the Board of Appeals lacked jurisdiction to hear these appeals since the permits that were appealed were postentitlement phase permits for the housing development project approved under Planning Commission Motion No. 21448 (2022-008784CUA) and Building Permit No. 2022/1223/9051, which authorized the construction of two dwelling units, and therefore were not subject to appeal under Government Code Section 65913.3(c)(3).



Appeal Volume

69 new appeals filed

Below the ten-year average of 112 appeals filed per fiscal year.



The reduced appeal volume can be attributed, in part, to the passage of Assembly Bill (AB) 1114. The law, effective January 1, 2024, was passed to address California's housing shortage.

- Pursuant to AB 1114, the Board of Appeals cannot accept jurisdiction of appeals of post-entitlement phase permits for housing development projects pursuant to Government Code Section 65913.3(c)(3). The restrictions for AB 1114 do not apply to a permit *filed* before January 1, 2024
- This means that the Board does not have jurisdiction over covered permits that add housing and were filed after January 1, 2024
- Permits for housing developments made up approximately 16% of the Board's appeal volume (based on a review of permits appealed in FY23 and FY24)

Another reason for the reduced volume of appeals is the lower number of permits issued by DBI. Since FY20, DBI has issued significantly fewer permits.

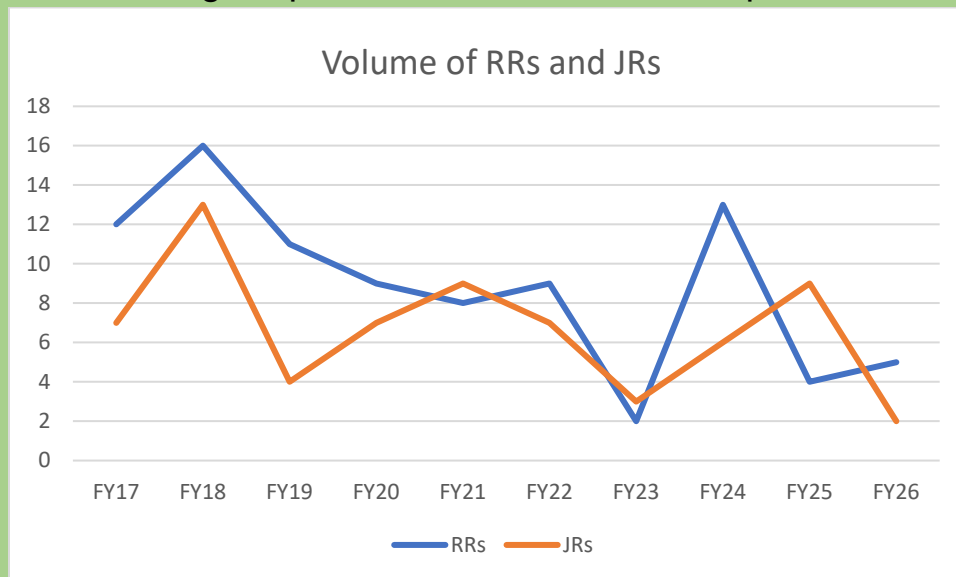
Fiscal year	Volume of appealable DBI permits issued
FY17	37,001
FY18	40,633
FY19	38,883
FY20	30,914
FY21	24,295
FY22	25,589
FY23	21,725
FY24	25,577
FY25	22,521
FY26	22,620

Rehearing & Jurisdiction Requests Volume

Rehearing Requests (RRs) ask the Board to reconsider a hearing decision. The Rules of the Board of Appeals provide, in part, that “[e]xcept in extraordinary cases, and to prevent manifest injustice, the Board may grant a Rehearing Request only upon a showing that new or different material facts or circumstances have arisen, where such facts or circumstances, if known at the time, could have affected the outcome of the original hearing.”¹⁰

Jurisdiction Requests (JRs) ask the Board to allow an appeal to be filed late. The Rules of the Board of Appeals provide that “[a]fter the appeal period has expired, the Board lacks jurisdiction over a matter except in extraordinary cases where the Board finds that the City intentionally or inadvertently caused the requestor to be late in filing the appeal.”¹¹

5 Rehearing Requests and 2 Jurisdiction Requests filed in FY26



- The ten-year average for rehearing requests: 9
- The ten-year average for jurisdiction requests: 7

¹⁰ Article V, Section 9(b) of the Board Rules.

¹¹ Article V, Section 10(a) of the Board Rules.

Volume of Appeals, RRs & JRs by Fiscal Year

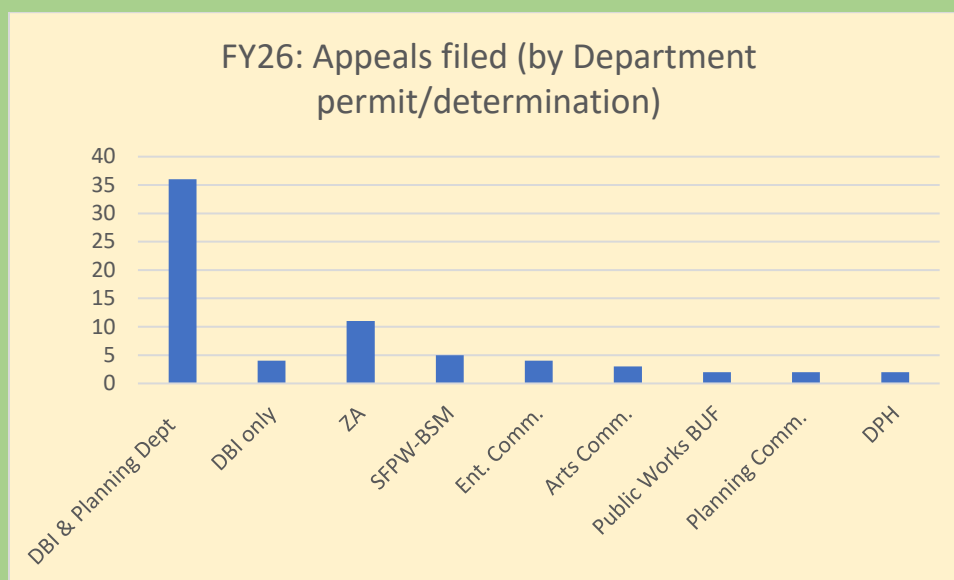
Fiscal Year	No. of Matters on the Board's Docket	No. of New Appeals	No. of New RRs	No. of New JRs	No. of Pending or Continued Cases from Prior Years
FY26	97	69	5	2	21
FY25	91	53	4	9	25
FY24	130	80	13	6	31
FY23	122	78	2	3	39
FY22	157	104	9	7	37
FY21	164	107	8	9	40
FY20	188	119	9	7	53
FY19	212	146	11	4	51
FY18	237	180	16	13	28
FY17	262	185	12	7	58
FY16	296	225	15	17	39

Subject Matter

77% of appeals filed were of land use decisions made by the Department of Building Inspection (DBI), the Planning Department (PD), the Zoning Administrator (ZA) and the Planning Commission.

Other permit appeals challenged the decisions of:

- San Francisco Public Works, Bureau of Street Use & Mapping (SFPW-BSM): 7%
- Entertainment Commission: 6%
- Arts Commission: 4%
- San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF): 3%
- Department of Public Health (DPH): 3%



Department	% BOA Cases FY19	% BOA Cases FY20	% BOA Cases FY21	% BOA Cases FY22	% BOA Cases FY23	% BOA Cases FY24	% BOA Cases FY25	% BOA Cases FY26
DBI and Planning Department	66%	70%	82%	63%	88%	80%	89%	77%
SFPW-BUF	8%	20%	15%	15%	10%	8%	<2%	3%
SFPW-BSM	19%	6%	1%	10%	2%	5%	<2%	7%
DPH	6%	3%	1%	6%	0%	3.5%	6%	3%
Entertainment Commission	0%	0%	0%	0%	0%	3.5%	<2%	6%
Arts Commission	<1%	1%	0%	0%	0%	0%	0%	4%
SFPD	0%	0%	0%	0%	0%	0%	0%	0%



Typical land use cases involve:

- Building Permits (site and alteration permits).
- Zoning Administrator (ZA) Decisions:
 - Variances.
 - Letters of Determination regarding permitted uses
 - Notices of Violations and Penalties
 - Requests for Suspension or Revocation of Building Permits
- Planning Commission Actions
- Historic Preservation Commission (HPC) Actions



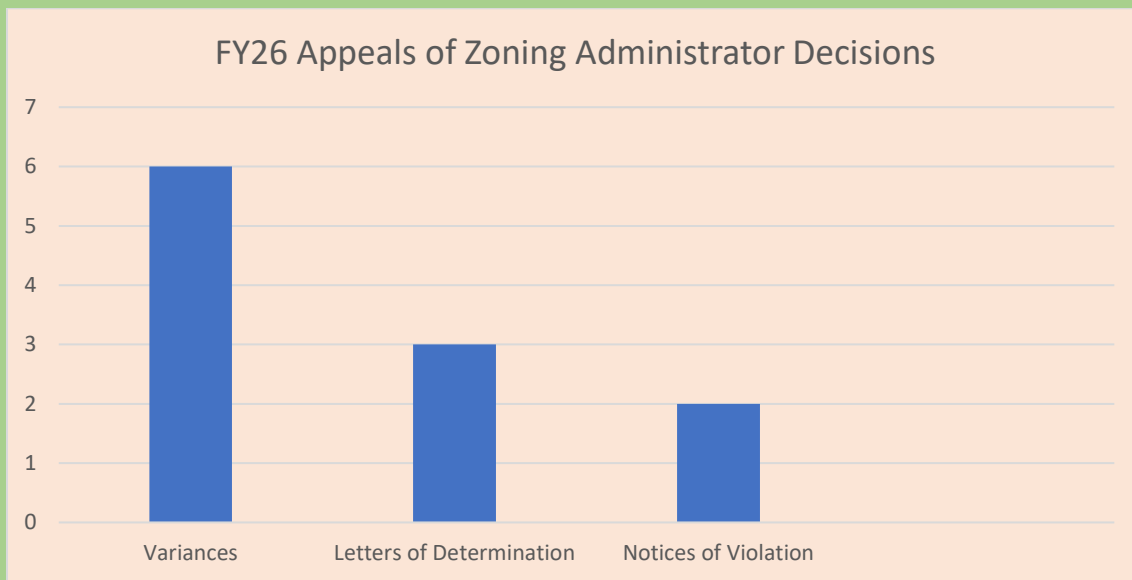
36 appeals filed were of decisions made jointly by DBI and the Planning Department:

- 34 appeals filed were of the issuance of site or alteration permits
- 2 appeals were filed of the disapproval of alteration permits

4 appeals filed were of decisions made solely by DBI (issuance of alteration permits, a plumbing permit and a mechanical permit; Planning Department approval was not required)

11 appeals filed were of decisions by the Zoning Administrator:

- 6 appeals of Variance Decisions.
- 3 appeals of Letters of Determination
- 2 appeals of the issuance of Notices of Violation and Penalty Decisions.



2 appeals were filed of the Planning Commission's Downtown Project Authorization at 570 Market Street (Planning Code Section 210.9 and 309)

There were no appeals for decisions made by the Historic Preservation Commission.



Types of Cases from San Francisco Public Works (SFPW)

Historically, most appeals of Public Works determinations involve tree removal orders. The department is represented by the Bureau of Urban Forestry (BUF) at these hearings. The Board also hears appeals of permits issued or denied by the Bureau of Street Use and Mapping (eg. Street Improvement permits, Minor Sidewalk Encroachment permits, Mobile Food Facility permits and Utility Excavation Permits)

In FY25, the volume of appeals of SFPW determinations was very low:

7 appeals filed were of decisions made by San Francisco Public Works:

- 5 appeals protested decisions or permits issued by the Bureau of Street Use and Mapping:
 - 2 appeals of the revocation of street vendor permits
 - 1 appeal of a street space permit (for construction)
 - 1 appeal of an excavation permit
 - 1 appeal of a wireless box permit
- 2 appeals protested the issuance of tree removal orders/permits

Other Types of Appeals Heard:

4 appeals protested permits issued by the Entertainment Commission:

- 3 appeals of Place of Entertainment Permits
- 1 appeal of a Limited Live Performance Permit

3 appeals were of decisions issued by the Arts Commission (suspensions of street artist licenses)

2 appeals were of decisions issued by the Department of Public Health:

- 1 appeal of the revocation of a Massage Establishment Permit
- 1 appeal of the suspension of a Tobacco Sales permit

Outcome: 50 Appeals Decided

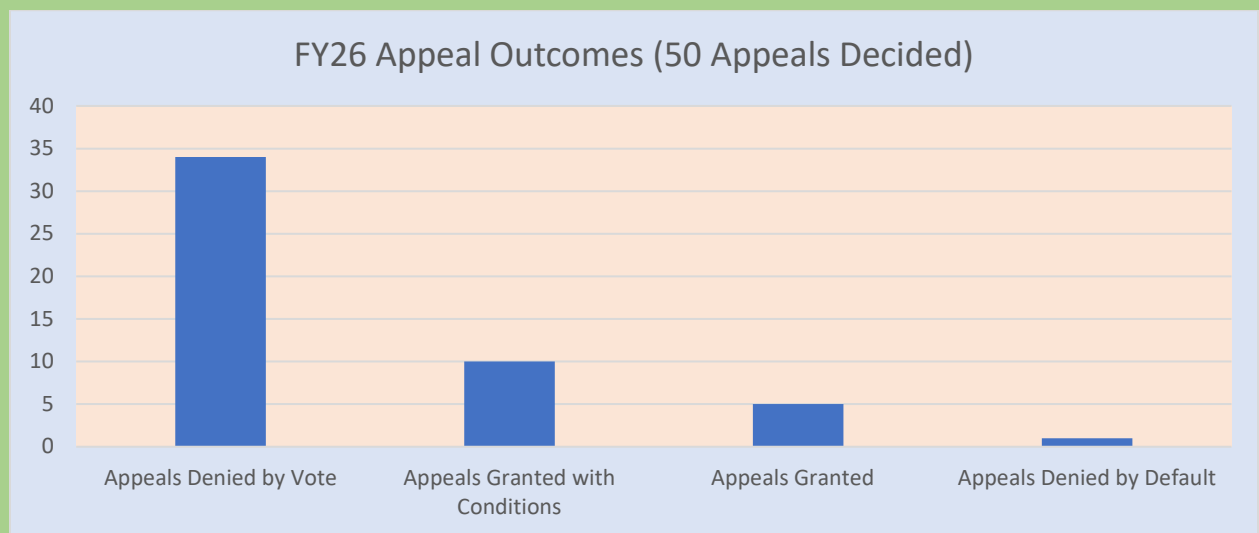
Given the supermajority vote required to grant an appeal, the Board typically denies more appeals than it grants.

34 appeals were denied by vote resulting in the underlying departmental decision being upheld

10 appeals were granted with conditions set by the Board: The underlying departmental decision was conditioned or modified in some way

5 appeals granted by the Board completely overturned the underlying departmental decision

1 appeal was denied for lack of the required votes needed to either grant or deny the appeal. In such cases, appeals are denied by operation of law



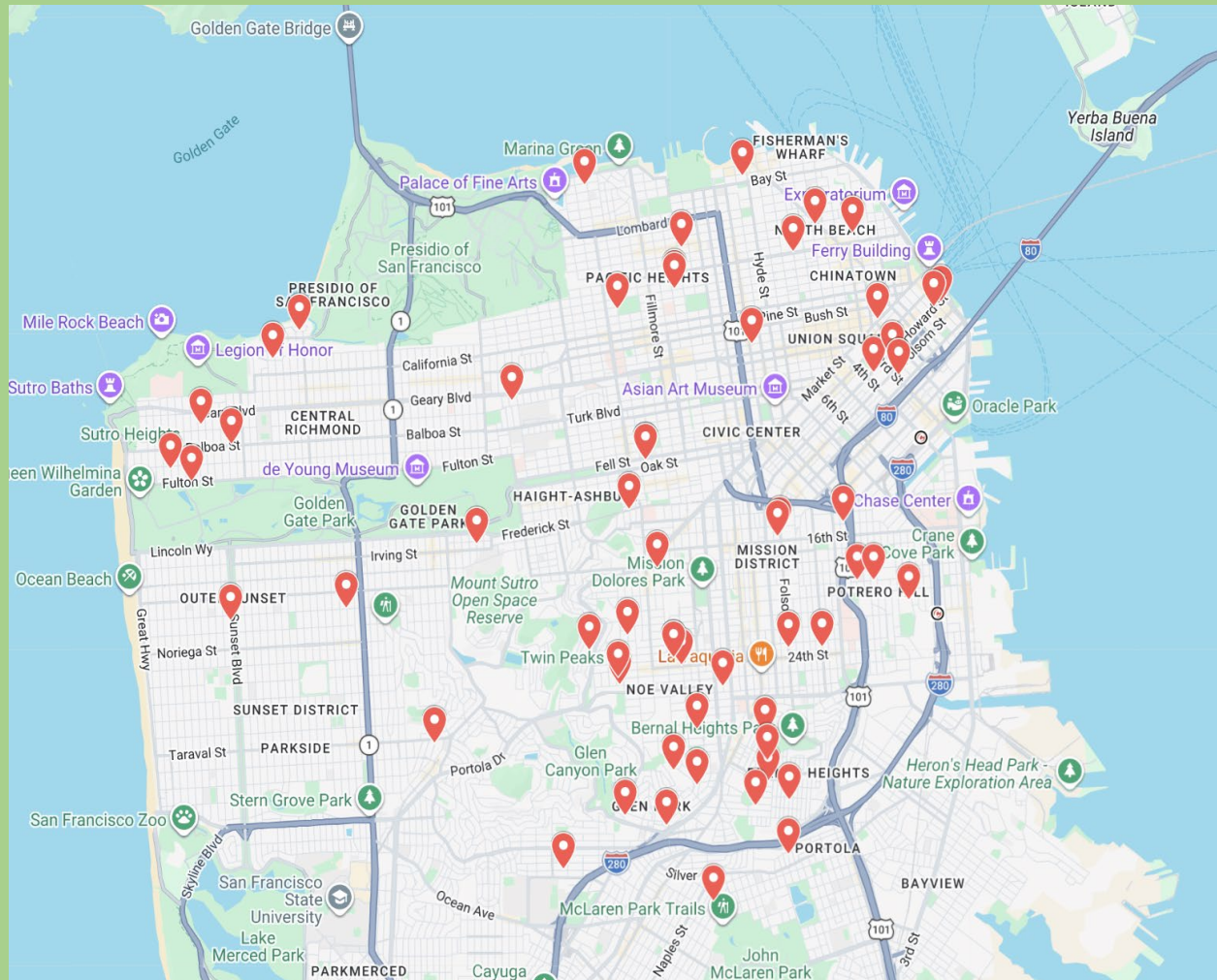
Outcome: Rehearing & Jurisdiction Requests

3 Rehearing Requests were heard and denied in FY26 and one was withdrawn

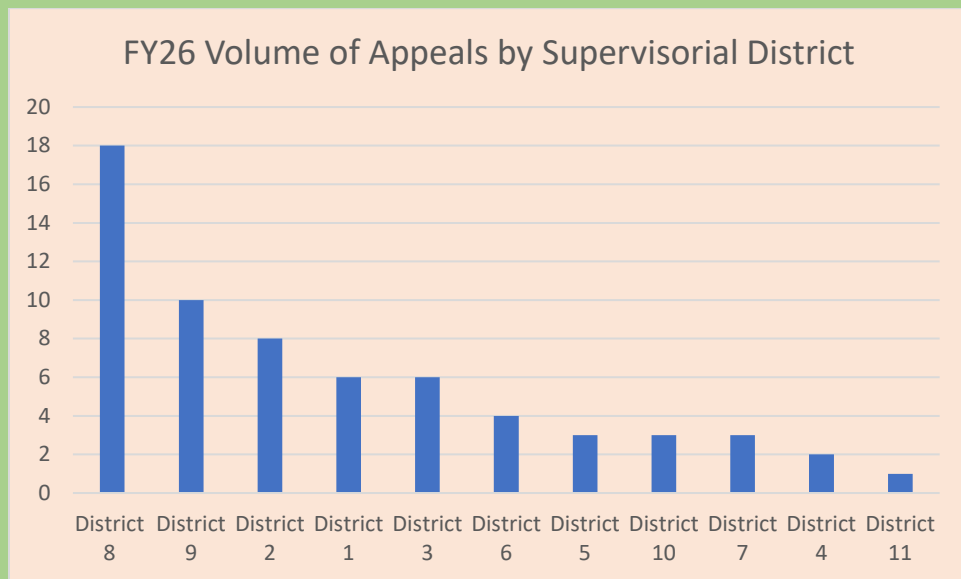
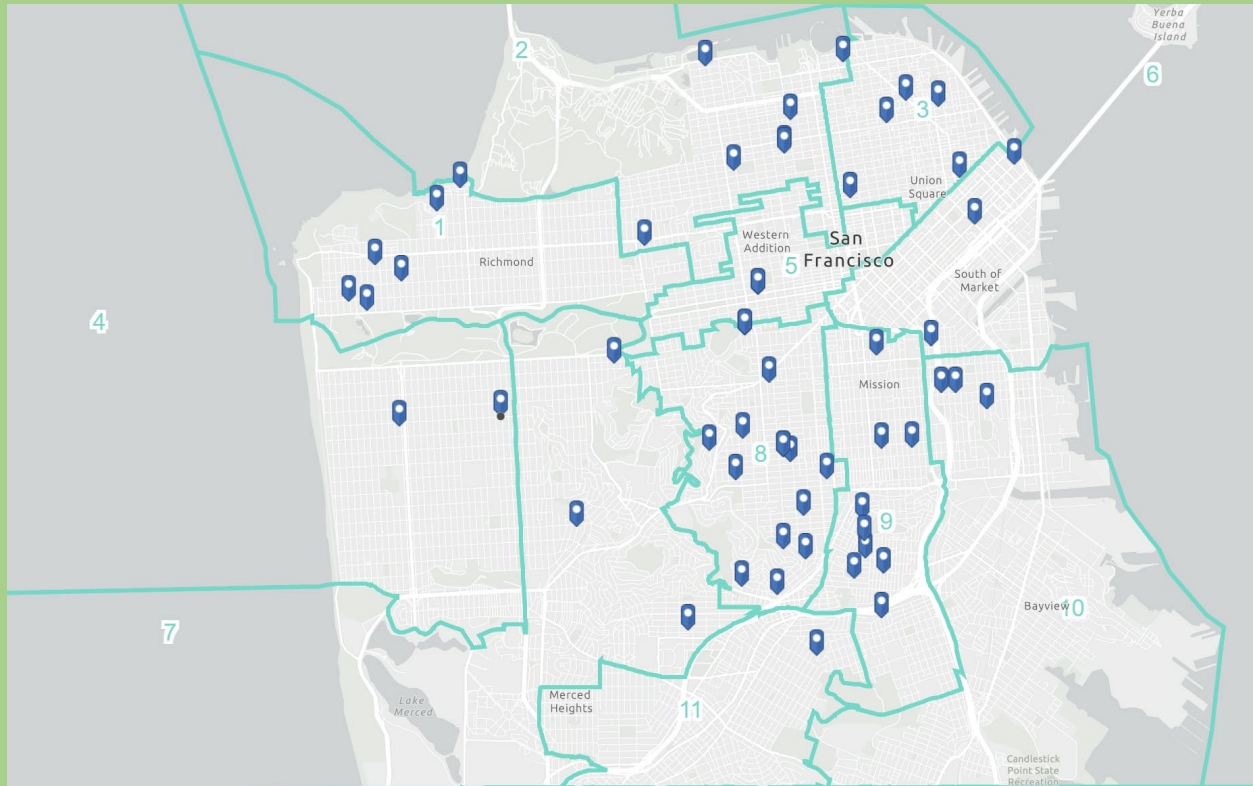
3 Jurisdiction Requests were heard and denied in FY26

Geographic Distribution of Appeals

The appeals heard by the Board during the year involved properties located in most of San Francisco's neighborhoods.



Appeals by Supervisorial District



PERFORMANCE MEASURES

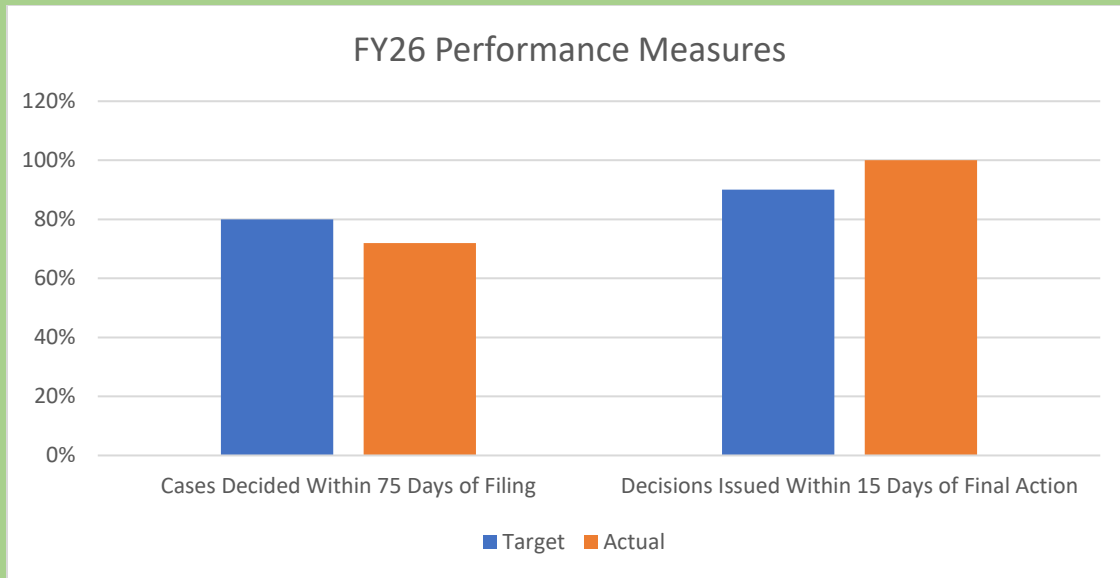
City departments are required to report on specific statistical measures as a way of assessing and documenting performance. The two measures unique to the Board look at how long it takes the Board to decide cases and how quickly written decisions are published.

- Measure One: Percentage of appeals that are decided within 75 days of filing of an appeal excluding those cases continued or rescheduled at the request of the parties¹² (cases decided in FY26).
 - The FY26 target was to decide 80% of the cases within 75 days of filing.¹³
 - The Board decided 72% of its cases within 75 days of the appeal being filed (note: in FY25 the Board decided 87% of its cases within 75 days of the appeal being filed). An extended vacancy on the Board as well as commissioner absences contributed to not achieving the goal in FY26.
- Measure Two: Percentage of written decisions¹⁴ that are issued within 15 days of final Board action.
 - The FY26 target was to issue 90% of the written decisions within 15 days of final action.
 - The Board issued 100% of the written decisions within 15 days of final action.

¹² Prior to FY23, the metric did not exclude cases that were rescheduled or continued at the request of the parties.

¹³ 80% has been a target since FY23. In FY22 the target was 70%. From FY11-FY21 the target was 60%.

¹⁴ Written decisions are issued 13 days after a decision is made at a hearing if a party has not made a request for a rehearing.



FY26 BUDGET

REVENUE OVERVIEW

The Board has two sources of revenue:

- (1) Surcharges placed on permits are designed to generate the revenue needed to cover operating expenses (99% of the budget).
 - a. Surcharges are collected on new and renewed permits.
 - b. The rates are based on the percentage of cases originating from each underlying department and anticipated permit application volume. The Controller sets the surcharge rates and adjusts them annually if needed.
- (2) Filing fees which are collected when new appeals are filed (1% of the budget).

PROJECTED REVENUE

\$1,254,289 was the projected revenue budget:

- \$1,244,289 in *projected* surcharge revenue by permit issuing departments on new permit applications.
- \$10,000 in *projected* filing fee revenue when new appeals are filed

ACTUAL REVENUE

\$1,491,636 in actual revenue was collected:

- Filing Fees: \$ 16,375
- Surcharges: \$1,475,261

EXPENDITURES OVERVIEW

BUDGETED EXPENDITURES: \$1,254,289

ACTUAL EXPENDITURES: \$ 1,100,855 spent by the Board.

Expenditures		
Operating	Budgeted Expenditures	\$1,254,289
	Actual Expenditures	\$1,100,855
	Variance from projected budget	\$153,434

Breakdown of Actual Expenditures:

- \$695,206 for salaries and fringe benefits for three full-time employees and five commissioners.
- \$369,174 for the services of other City departments, such as the Department of Technology, SFGovTV, Controller's Office, Real Estate (rent) and City Attorney's Office
- \$21,968 for specialized services such as software licensing fees, interpreters, parking, and office management costs such as photocopier and postage.
- \$14,507 materials and supplies.

FY26 Budget		
Operating Budget	Total Actual Revenues	\$1,491,636
	Total Actual Expenditures	\$1,100,855
	Surplus moved to reserves	\$ 390,781

Surcharges

- The surcharges imposed on appealable permits are intended to recover costs for the Board's expenses.

- Each Spring the Controller's Office does a surcharge analysis to determine if surcharge amounts need to change.

Dept.	FY20	FY21	F22	FY23	FY24	FY25	FY26	FY27
Planning	\$19.00	\$20.00	\$22.50	\$37.00	\$39.00	\$44.00	\$45.00	\$45.00
DBI	\$19.00	\$20.00	\$22.50	\$37.00	\$39.00	\$44.00	\$45.00	\$45.00
DPH	\$44.50	\$46.00	\$50.50	\$45.00	\$48.00	\$51.00	\$51.00	\$69.00
SFPW	\$6.50	\$7.00	\$9.00	\$9.00	\$10.00	\$11.00	\$11.00	\$9.00
SFPD	\$6.00	\$6.00	\$6.00	\$3.00	\$3.00	\$3.00	\$3.00	\$3.00
ENT. Com.	\$4.00	\$4.00	\$4.00	\$2.00	\$2.00	\$2.00	\$2.00	\$2.00

Appeal Filing Fees¹⁵

Determination	FEE
Zoning Administrator Determination	\$600
Planning Commission Action	\$600
Dept. of Building Inspection, Alteration, Demolition or other permit	\$175
Dept. of Building Inspection Residential Hotel or Apartment Conversion permit	\$525
Dept. of Building Inspection: Imposition of Penalty	\$300
Police Dept. & Entertainment Commission permit issued to business owner or operator	\$375
Police Dept. & Entertainment Commission permit issued to employee or contract worker	\$175
Police Dept. & Entertainment Commission permit revocation or suspension (owner/operator)	\$375
San Francisco Public Works Tree Removal Permit issued to City agency	\$100
All other permits or determinations (not covered above)	\$300
Rehearing and Jurisdiction Requests	\$150

¹⁵ Filing fees are set by ordinance and may be waived in certain circumstances.

Special Items

In addition to hearing appeals, rehearing requests and jurisdiction requests, the Board had a variety of special items on its calendars. Executive Director Lamarre and President Trasviña also provided feedback and participated in matters that affected the Board.

1. Commission Streamlining Task Force¹⁶

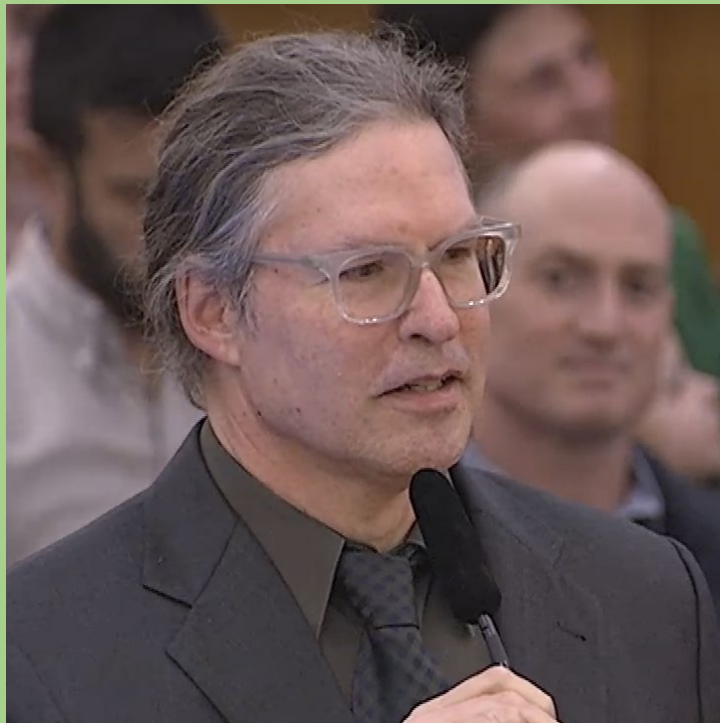
- In response to the Task Force’s inquiry, Executive Director Lamarre provided the Task Force with information about the Board’s budget, its personnel, cases heard and hearing processes.
- Executive Director Lamarre and President Trasviña attended public Task Force hearings on July 16, 2025 and October 1, 2025 regarding the potential for the Board of Appeals to absorb the Access Appeals Commission, Abatement Appeals Board, and Board of Examiners. These meetings also addressed the possibility of the Board absorbing the appellate functions for the Rent Board and Entertainment Commission. Both President Trasviña and Executive Director Lamarre provided feedback.
- The commissioners were given an opportunity to provide direct feedback to the Task Force.¹⁷

¹⁶ San Francisco voters approved Proposition E in November 2024, creating the Commission Streamlining Task Force to review the City’s appointive boards, commissions, and other public bodies. The Task Force was charged with making recommendations to the Mayor and Board of Supervisors about ways to modify, eliminate, or combine the City’s appointive boards and commissions to improve the administration of government.

¹⁷ In response to the Task Force’s solicitation of feedback, a special item was scheduled on the Board’s October 8, 2025 calendar to discuss operational improvements that the Board and other commissions might benefit from and to identify opportunities for improvement. The feedback was intended to inform potential recommendations for the Commission Streamlining Task Force. When the agenda item was called, the hour was very late, so the Executive Director suggested that, in lieu of hearing the item, the commissioners could email her directly and she would thereafter forward any feedback to the Task Force. President Trasviña agreed with this approach.

2. Special Items on the Board's December 10, 2025 calendar

- The Board considered a draft letter, prepared by President Trasviña and addressed to the Board of Supervisors, which outlined the decision by the Recreation and Parks Department to disregard the 15-day appeal window for the tree removal order that was the subject of Appeal No. 25-007 @ 50 UN Plaza (on October 8, 2025 the Board denied the appeal and upheld the order). The draft letter was adopted by the Board with the amendment to copy the Mayor's office.
- The Board recognized Chris Buck, Urban Forester with San Francisco Public Works, Bureau of Urban Forestry, on his numerous contributions to the Board of Appeals and the City of San Francisco. Chris Buck was a long-time liaison to the Board of Appeals, and he retired from City service.



3. Special Item on the Board's December 17, 2026 calendar

The Board recognized Commissioner Rick Swig for his decades of devotion to public and community service, including serving as the President and as a member of the Board of Appeals since 2015, President and member of the former Redevelopment Agency, member of the San Francisco Airport Hotel Citizens Advisory Panel and member of the Fillmore Heritage Center Review Citizens Advisory Panel. Commissioner Swig resigned from the Board of Appeals after December 2025.



4. Special Item on the Board's January 14, 2026 calendar

The Board reviewed and discussed proposed legislation (File No. 251211) which would eliminate appeals to the Board of Appeals for certain city-initiated tree removals. The Board did not take any action. President Trasviña recommended that the matter be taken under advisement and to continue to have discussions with the agencies and supervisors about the proposed legislation. Commissioner Saroyan and Commissioner Abad (the other two commissioners present at that hearing) agreed with this approach.¹⁸

¹⁸ On July 27, 2026, the proposed legislation went before the Land Use and Transportation Committee. In addition to shortening the appeal timeframe for certain types of tree removals, it removed the right to appeal certain city-initiated tree removals to the Board of Appeals. Executive Director Lamarre and President Trasviña attended this meeting and opposed the removal of the appeal rights. The Committee, however, advanced the legislation to the full Board of Supervisors. On August 26, 2026 the Board of Appeals had another special item on its calendar to further review and discuss taking action on the proposed legislation. The Board voted to direct the President to develop comments for the Board of Supervisors, in opposition to the pending legislation (File No. 251211) as it related to the elimination of Board of Appeals' review of city-initiated hazard tree removals, with the Board recommending that the legislation be amended to reinstate the right to appeal (copying the Mayor's office and relevant departments). The letter was drafted and sent to the supervisors and mayor's office. On September 1, 2026, the Board of Supervisors took its first reading and voted 7-4 to support the legislation without the amendment sought by the Board of Appeals. On September 15, 2026, the Board of Supervisors voted 7-4 to pass the legislation.

LITIGATION

Parties dissatisfied with a Board determination may seek further review and relief in court. Set forth below is a description of the lawsuits that were filed, pending, or resolved during the fiscal year challenging the Board's determinations.

Pending: 1049 Market Street, LLC v. City & County of San Francisco, et al.

Six lawsuits were filed by the owners of a six-story building challenging, among other things, the Board's April 8, 2015, decision to grant an appeal filed by residential tenants protesting the Zoning Administrator's Release of Suspension Request on a permit to convert live-work units to commercial space, and the Board's April 5, 2017 decisions related to the revocation of that permit. One case was filed in federal court, and the others were filed in state court.

The state cases assert claims under CEQA, a vested rights theory and several constitutional claims. The federal case focuses on federal constitutional claims. Because the state and federal suits challenge the same conduct and seek the same damages, the federal court agreed to have the state court resolve the issues of local land use law before it determines whether any federal constitutional issues remain. On this basis, the federal lawsuit has been stayed pending the outcome in state court.

In April 2016, the City won the first of the five state court cases on all issues except the jurisdictional issue relating to whether the Board had properly considered the validity of the permit. The court remanded the matter to the Board for reconsideration of whether the Zoning Administrator erred or abused his discretion in determining that the property's principally permitted use as an office had not been abandoned but left the Board the option to apply recently adopted legislation requiring a Conditional Use Authorization. The City has since prevailed in the appeal of this case, and that ruling is now final.

Another of the state court cases, which challenges, on CEQA grounds, the permanent zoning controls adopted by the Board of Supervisors, is before the Court of Appeal but has not yet been briefed. In August 2017, another of the state court cases was rejected based on the petitioner's failure to serve timely. The two most recently filed cases, stemming from the Board's 2017 decisions, are still before the trial court.

The parties reached a settlement and began permitting. However, one of the parties to the settlement informed the court of its desire to back out of the settlement, as the property can no longer be appraised for the value established in the settlement. Owners have entered into conditional sale of building to a group housing developer. Dismissal filed August 2026, in all remaining actions.

Pending in FY25 [partially resolved in FY26]: 1900 Bryant Street Investors, LLC v. City and County of San Francisco, et al.

Two separate lawsuits were filed by the property owner for this matter. The property owner sought a Letter of Determination from the Zoning Administrator ("ZA") concerning whether space at 535 Florida Street could be converted to a cafeteria for employees of a laboratory at a neighboring property, and whether this change of use would be subject to Planning Code Section 202.8 (Prop X, 2016). Section 202.8 requires that, in the zoning district where 535 Florida Street is located, any project proposing to convert more than 5,000 square feet of production, distribution, and repair (PDR) space into a new use must include replacement PDR space at a ratio of .75 square feet for every one square foot removed. The ZA reviewed the permit history for the existing catering and retail use at the property and determined that the project proposed converting more than 5,000 square feet of PDR space to a new use despite some accessory office space at the property, and thus Section 202.8 of the Planning Code applied to the proposed employee cafeteria project. The Board upheld the ZA's determination on February 17, 2021, finding that the ZA did not err or

abuse his discretion in the Letter of Determination. The property owner filed a writ in the Superior Court on May 18, 2021, alleging that the Board abused its discretion in upholding the ZA's Letter of Determination and alleging constitutional damage claims. On May 20, 2022, the ZA issued a second Letter of Determination finding that lack of notice was a procedural oversight but did not invalidate permit or prejudice the permit holder. The Board upheld the second Letter of Determination on July 20, 2022. The Property owner then filed the second lawsuit – another writ petition with constitutional damage claims. In the second lawsuit, the property owner is challenging the second Letter of Determination finding that the lack of Planning Code 312 notice did not invalidate the building permit. The writ claims in both cases were denied on October 20, 2025. The property owner appealed, but ultimately dismissed the appeal, as the related constitutional claims have not yet been resolved in the trial court. It is not clear whether or when the owner will pursue those claims.

Pending: Turon v. City and County of San Francisco, et al.

A property owner challenged the suspension of building permits for renovation of his two-unit flat at 2722-2724 Folsom Street. The Board of Appeals upheld the Zoning Administrator's request for the suspension of the building permits.¹⁹ The owner alleged that the Department of Building Inspection approved the work and that the Planning Department is retaliating for an earlier dispute. This action followed a settlement of an earlier case that was also before the Board of Appeals regarding the property's legal dwelling units. The property owner sought a writ of mandate and alleged constitutional claims. The City's motion to dismiss was partially granted. The parties entered settlement discussions and executed a settlement agreement that was approved by the Board of Supervisors in December 2024. The City has complied with its obligations under the agreement, but Plaintiff did not timely dismiss the lawsuit or record the notice of special retractions ("NSR"). The City moved to enforce the agreement and Plaintiff belatedly dismissed the lawsuit and recorded

¹⁹ The Board denied the appeal on July 7, 2021, and thereafter the property owner requested a rehearing. The Board denied the rehearing request on October 27, 2021.

an NSR that the Court found to be substantially compliant with the settlement agreement. Plaintiff has filed his own motion to enforce the settlement based on his allegation that the Planning Commission impermissibly included his proposed ADU in its conditional use authorization permitting removal of his unauthorized dwelling unit, as well as a separate motion related to his tentative subdivision map for condominium conversion. The City has opposed those motions, which are scheduled to be heard in February 2027. Plaintiff also administratively appealed a Letter of Determination related to the permitting contemplated by the settlement. The Board denied that appeal on July 15, 2026, and the property owner's rehearing request was denied on August 12, 2026.

Pending: Pluta v. City and County of San Francisco, et al.

A pro se litigant filed a writ petition and complaint in the San Francisco Superior Court challenging the denial of a proposed variance to subdivide and redevelop residential property at 4300 17th Street. The Board upheld the ZA's denial of the variance. The proposed project would retain an existing two-unit building, add an Accessory Dwelling Unit, and build two new units on a new lot. The project requires a conditional use authorization and a variance, but the plaintiff is only challenging the denial of the variance. The plaintiff alleges violation of the Housing Accountability Act, abuse of discretion, takings, violation of the Equal Protection Clause, and fair housing violations. Plaintiff has not prosecuted the case so far. Plaintiff tried to file a Builder's Remedy project on February 1, 2023, but was informed by the Planning Department that HCD certified the Housing Element which makes a Builder's Remedy project unavailable.

Pending: Memarzadeh v. Board of Appeals

In two separate lawsuits, the property owner is challenging the issuance of a street-tree removal permit and the denial of a rear-yard variance for a vertical addition to an existing rear-yard structure on a sloped lot at 408–412 Cortland Avenue.

With respect to the tree removal permit, the property owner appealed his own permit to remove two trees because the permit only allowed him to replace one of the trees that was being removed (he further did not agree with the species for the replacement tree). The Board of Appeals denied the appeal.²⁰

With respect to the denial of the rear-yard variance, the Board of Appeals denied the appeal and upheld the denial of the variance.²¹

Both writs were untimely filed. The City filed a demurrer to the case challenging the variance denial, which was granted without leave to amend on September 18, 2024. Petitioner appealed the judgment and the Court of Appeal affirmed. The City will continue to discuss with petitioner voluntary dismissal of the tree case. If petitioner proceeds with litigation, the City intends to file a demurrer seeking dismissal of the tree case based on expiration of the statute of limitations and failure to bring the case to trial within the five-year deadline.

Pending: Susy Chen v. San Francisco Board of Appeals, et al.

The petitioner is challenging her neighbor's residential addition at 436 Eureka Street. The Board of Appeals granted the appeal and issued the permit on the condition that the revised plans submitted by the property owner be adopted.²² The petition alleges there was a lack of the required 311 notice and that the project does not comply with the Planning Code or Design Guidelines. The petition also alleges denial of fair hearing, and violation of due process. The petitioner has not requested the administrative record or otherwise advanced the litigation. However, petitioner recently filed a second lawsuit challenging the Board's February

²⁰ The Board of Appeals denied the appeal on July 25, 2018. Thereafter, the property owner requested a rehearing. The Board denied the rehearing request on September 12, 2018.

²¹ The Board of Appeals denied the appeal on October 27, 2021. Thereafter, the property owner requested a rehearing. The Board denied the rehearing request on December 1, 2021.

²² The Board of Appeals granted the appeal (with conditions) on April 13, 2022. Thereafter, the appellant requested a rehearing. The Board denied the rehearing request on May 11, 2022.

18, 2026, decision denying Appeal No. 25-053, regarding modification and extension of the earlier building permit. The City is conferring with petitioner regarding preparation of the administrative record.

Pending: 320 Alemany, LLC v. City & County of San Francisco

Petitioner-Owner challenges the Letter of Determination regarding the available path to legalization of 17 unlawful dwelling units. The Board of Appeals denied the appeal of the Letter of Determination on October 23, 2024 and upheld the Letter of Determination. The property was the subject of extensive code enforcement proceedings requiring the owner to bring the buildings in compliance with the Code. Owner seeks to use the State Density Bonus Law (“SDBL”) to legalize all 17 units in place. The Zoning Administrator found that the proposed project did not qualify for SDBL based on City’s interpretation of the law, and the City prohibited the applicant from treating multiple, unmerged parcels as a single lot for density bonus purposes. The City prevailed at trial court and Owner appealed. The matter is fully briefed and scheduled for argument at the Court of Appeal on November 19, 2026.

Pending: Emberton v. San Francisco City Government (and related petitions for writ of mandate)

Owner alleges numerous constitutional civil rights and state law claims related to Planning and DBI enforcement regarding an unpermitted fence, gas fireplace, and trellis in the public right of way. The City prevailed on demurrer multiple times, but the court has granted plaintiff leave to amend. On March 10, 2026, the superior court granted the City’s demurrer to the 8th amended complaint in its entirety without leave to amend. Plaintiff has filed numerous motions and interlocutory appeals challenging the order, which have all been denied. The Court entered judgment in the City’s favor on August 31, 2026. We expect an appeal.

The owner appealed three different determinations to the Board of Appeals: (1) the denial of a minor sidewalk encroachment permit by Public Works (on June 26, 2024, the Board of Appeals granted the appeal with certain conditions and subject to the property owner obtaining a variance), (2) the denial of a front-setback variance by the Zoning Administrator (on October 23, 2024, the Board denied the appeal and upheld the denial of the variance), and (3) the issuance of a Notice of Violation by the Zoning Administrator for various violations including unpermitted structures and work performed without permits (the Board of Appeals denied the appeal and upheld the Notice of Violation on March 5, 2025).

Pending: Ling La v. Board of Appeals

Writ petition to set aside Board's decision (Appeal No. 25-046) upholding ZA determination that UDU was "rented for consideration" within the last 10 years and thus, its removal is ineligible for CUA exemption. P alleges UDU was occupied by caregiver compensated by State, and was not renting the UDU, and that ZA determination lacks substantial evidence. Asserts claims for abuse of discretion, error of law, and procedural due process. City is exploring potential settlement options



Left to Right: (Former) Commissioner J.R. Eppler, Commissioner Jose Lopez, (former) Commissioner Alexis Levy (formerly Alex Lemberg), Commissioner John Trasviña, and (former) Commissioner Rick Swig.



Left to Right: Commissioner John Trasviña, Commissioner Rebecca Saroyan, (former) Commissioner Rick Swig, Executive Director Julie Lamarre and Commissioner Jose Lopez.



(L) Commissioner Lily Wong and (R) Board of Supervisors (BOS) President Rafael Mandelman



(L) Commissioner Robin Abad and (R) BOS President Rafael Mandelman