

# SAN FRANCISCO BOARD OF APPEALS ANNUAL REPORT FY25 (DRAFT)



# MISSION

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***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

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- Open to the public and broadcast on the City’s government television channel and on the Board’s website.<sup>1</sup>
- 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 website.<sup>2</sup>

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<sup>1</sup>SFGovTV: [http://sanfrancisco.granicus.com/ViewPublisher.php?view\\_id=6](http://sanfrancisco.granicus.com/ViewPublisher.php?view_id=6)

<sup>2</sup>[www.sfgov.org/boa](http://www.sfgov.org/boa)

## Volume of Hearings Over the Years

Fiscal Year	Number of Meetings	Total Hours
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 FY25, the Board had an average of 28 meetings per year and spent an average of 87 hours per year conducting hearings.

## BOARD MEMBERSHIP IN FY25

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.

For the first half of FY25, Jose Lopez served as President of the Board and John Trasviña served as Vice President. For the second half of FY25, John Trasviña served as President of the Board and J.R. Eppler served as Vice President.

<b>Commissioner</b>	<b>Appointing Authority</b>	<b>Original Appointment Date</b>	<b>Term Expires</b>
<i>Seat 1: Rick Swig</i>	Board of Supervisors	April 2, 2015 <sup>3</sup>	July 1, 2028
<i>Seat 2: J.R. Eppler</i>	Board of Supervisors	September 27, 2022	July 1, 2026 (voluntarily resigned August 22, 2025)
<i>Seat 3: Jose Lopez</i>	Mayor	July 27, 2021	July 1, 2028 <sup>4</sup>
<i>Seat 4: John Trasviña</i>	Mayor	July 28, 2022	July 1, 2026
<i>Seat 5: Rebecca Saroyan</i>	Mayor	May 21, 2025	July 1, 2028 <sup>5</sup>



From Left to Right: Rick Swig, J.R. Eppler, Jose Lopez, John Trasviña, and Rebecca Saroyan.<sup>6</sup>

<sup>3</sup> 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 Breed. In FY25, Commissioner Swig was appointed by the President of the Board of Supervisors to serve through July 1, 2028 (filling the seat formerly occupied by Commissioner Alexis Levy (formerly known as Alex Lemberg)).

<sup>4</sup> Commissioner Lopez was appointed by Mayor Breed to complete the term of former Commissioner Eduardo Santacana, who resigned on April 14, 2021. In FY25, Commissioner Lopez was reappointed by Mayor Breed to serve through July 1, 2028.

<sup>5</sup> Commissioner Saroyan was appointed by Mayor Lurie (effective May 21, 2025) to fill the vacant seat previously occupied by Commissioner Swig (who was appointed to his current seat by the President of the Board of Supervisors for FY25). Commissioner Saroyan's term ends on July 1, 2028.

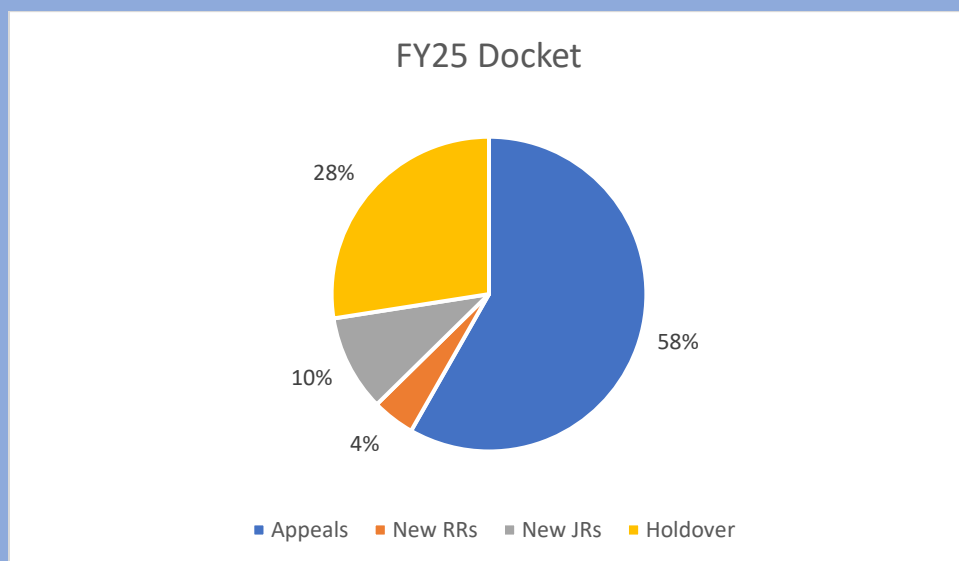
<sup>6</sup> Commissioner Alexis Levy (formerly known as Alex Lemberg) served the first two months of FY25.

## APPEAL EXPERIENCE

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**91** matters were on the Board's docket during the year:

- New matters filed:
  - 53 appeals.
  - 4 rehearing requests (RRs).
  - 9 jurisdiction requests (JRs).
- 25 pending or continued matters carried forward from prior years.



**52** matters were decided by the Board:

- 39 appeals.
- 5 rehearing requests<sup>7</sup>.
- 8 jurisdiction requests.<sup>8</sup>

**38** matters were not heard:

- 9 pending appeals<sup>9</sup>.
- 18 appeals were withdrawn.
- 10 appeals remained or were placed on Call of the Chair (these appeals do not have a scheduled hearing date).
- 1 appeal was dismissed prior to the hearing date.<sup>10</sup>

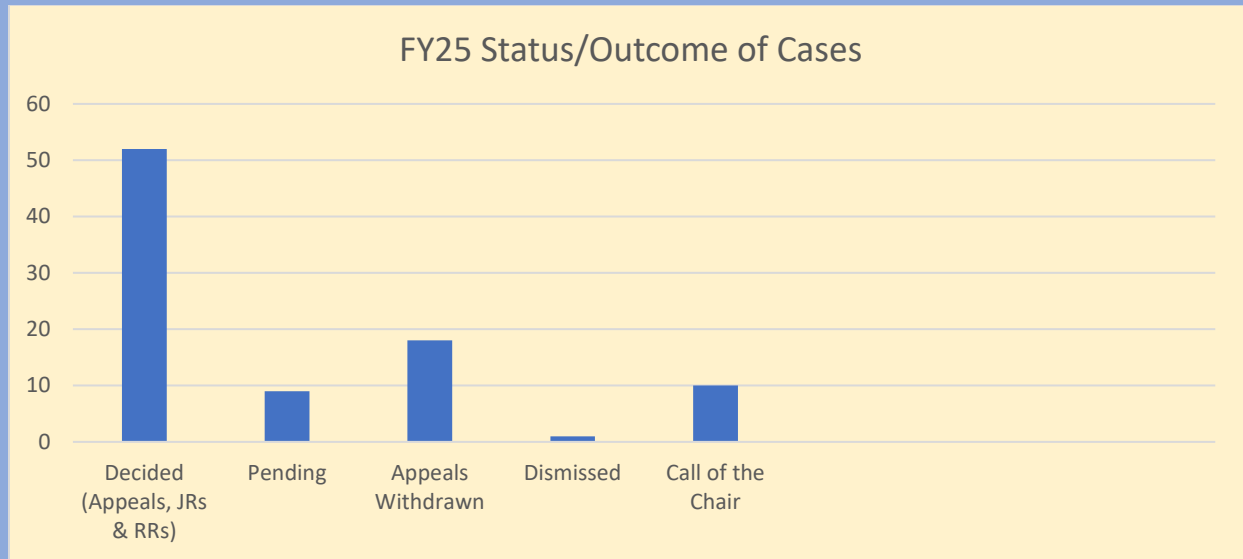
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<sup>7</sup> The Rehearing Request for Appeal No. 24-024 was filed in FY24 and decided in FY25.

<sup>8</sup> In FY25, the Board decided 1 JR filed in FY24 and 7 JRs filed in FY25. Two of the 9 JRs filed in FY25 were decided in FY26.

<sup>9</sup> Pending appeals for the purpose of this report are those that had scheduled hearing dates and were not decided/resolved in FY25. 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.

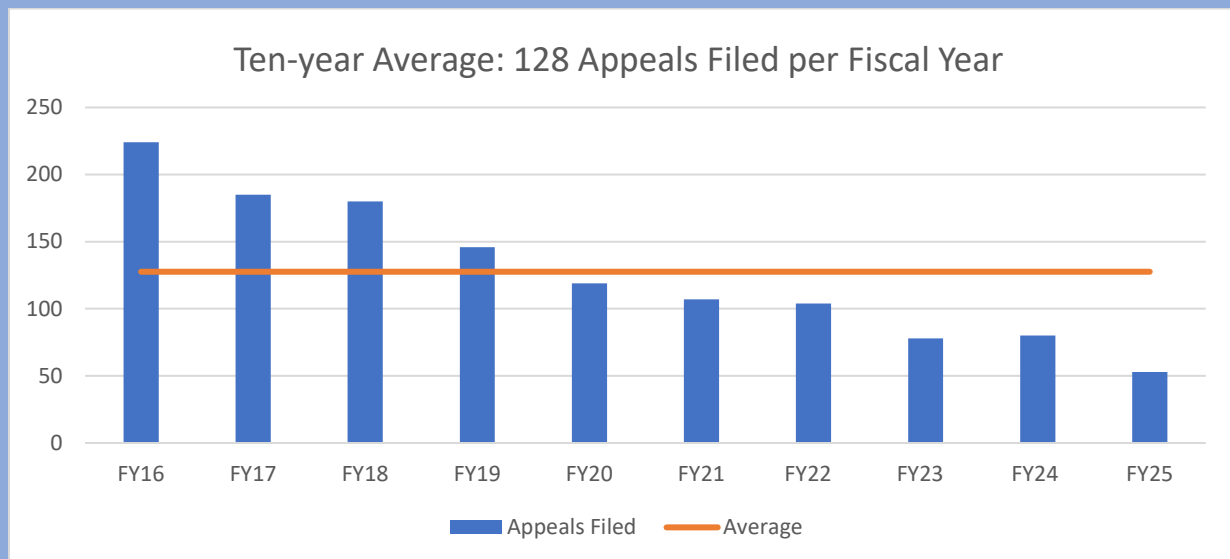
<sup>10</sup> Appeal No. 24-054 was initially accepted, subsequently determined not to be timely filed, and, on that basis, administratively dismissed.



## Appeal Volume

**53** new appeals filed

**Below** the ten-year average of 128 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 that are 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 FY17, DBI has issued significantly fewer permits.

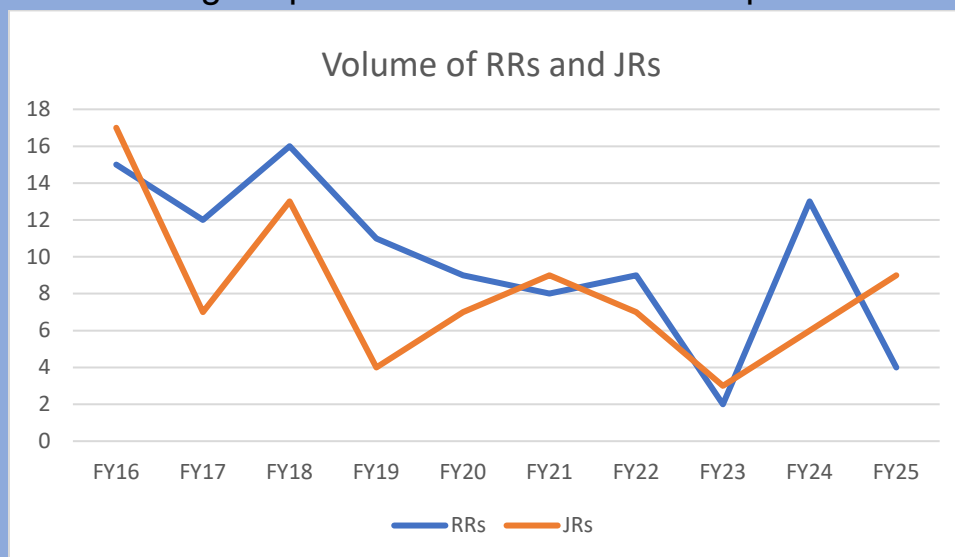
Fiscal Year	Volume of DBI Permits issued
FY17	37,001
FY18	40,633
FY19	38,883
FY20	30,914
FY21	24,295
FY22	25,589
FY23	21,725
FY24	25,577
FY25	22,333 (est)

## 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.”<sup>11</sup>

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.”<sup>12</sup>

### 4 Rehearing Requests and 9 Jurisdiction Requests filed in FY2



- The ten-year average for rehearing requests: 10
- The ten-year average for jurisdiction requests: 8

<sup>11</sup> Article 5, Section 9(b) of the Board Rules.

<sup>12</sup> Article 5, Section 10(a) of the Board Rules.

## Volume of Appeals, RRs & JRs by Fiscal Year

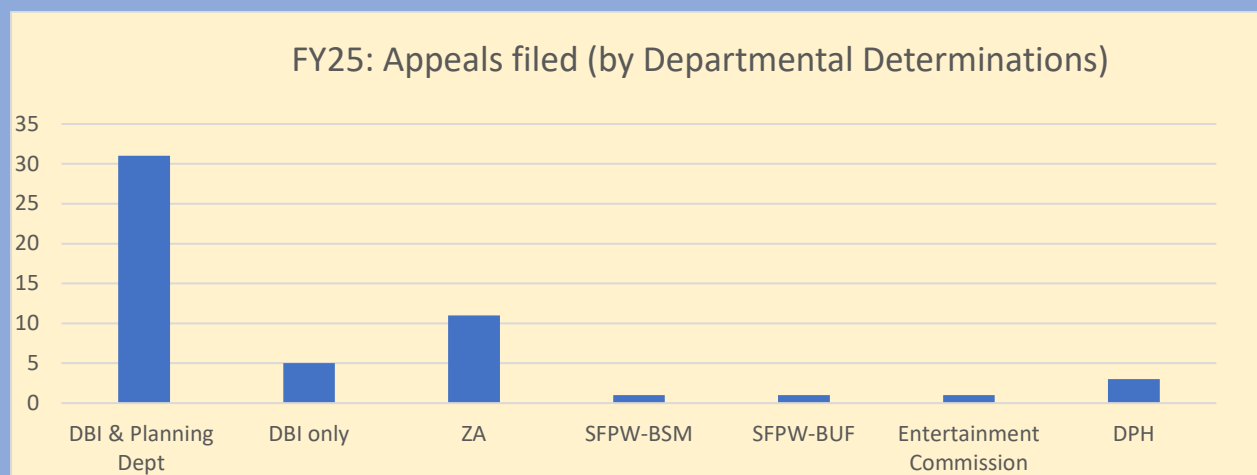
Fiscal Year	No. of Matters on the Board's Docket	No. of New Appeals	No. of New RRs	No. of New JRs	No. of Pending or Continued Cases from Prior Years
FY25	91	53	4	9	25
FY24	130	80	13	6	31
FY23	122	78	2	3	39
FY22	157	104	9	7	37
FY21	164	107	8	9	40
FY20	188	119	9	7	53
FY19	212	146	11	4	51
FY18	237	180	16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

## Subject Matter

89% of appeals filed were of land-use decisions made by the Department of Building Inspection (DBI), the Planning Department (PD) and the Zoning Administrator (ZA).

Other permit appeals challenged the decisions of:

- San Francisco Public Works, Bureau of Urban Forestry (SFPW-BUF): <2%.
- San Francisco Public Works, Bureau of Street Use & Mapping (SFPW-BSM): <2%
- Entertainment Commission: <2%
- Department of Public Health (DPH): 6%



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



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

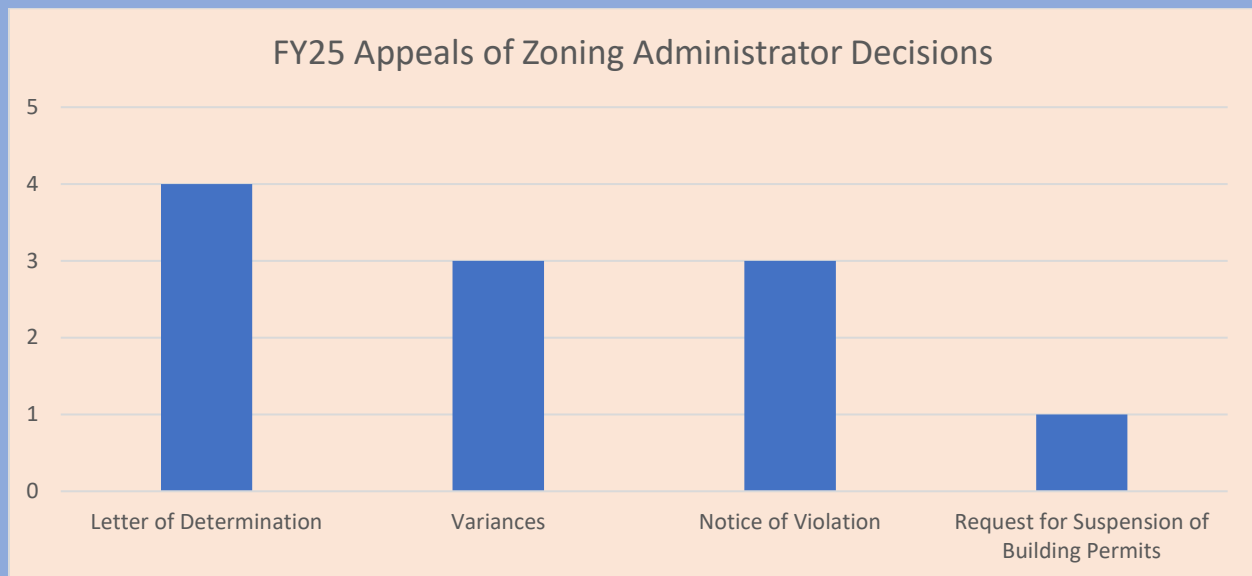
- 29 appeals filed were of the issuance of site or alteration permits.
- 2 appeals were filed of the disapproval of alteration permits.

**5** appeals filed were of decisions made solely by DBI (issuance of alteration permits; Planning Department approval was not required).

**11** appeals filed were of decisions by the Zoning Administrator:

- 4 appeals protested Letters of Determination.

- 3 appeals protested the issuance of Notices of Violation and Penalty Decisions.
- 3 appeals protested the issuance of Variance Decisions.
- 1 appeal protested a Request for Suspension of building permits.



In FY25, there were no appeals of Planning Commission or HPC actions.



## Types of Cases from San Francisco Public Works (SFPW)

Typically, 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:

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

- 1 appeal protested the issuance of a tree removal order.
- 1 appeal protested the issuance of a street improvement permit.

## Other Types of Appeals Heard:

**1** appeal of a permit issued by the Entertainment Commission.

**3** appeals were of decisions issued by the Department of Public Health (denial of retail tobacco permits).



## Outcome: 39 Appeals Decided

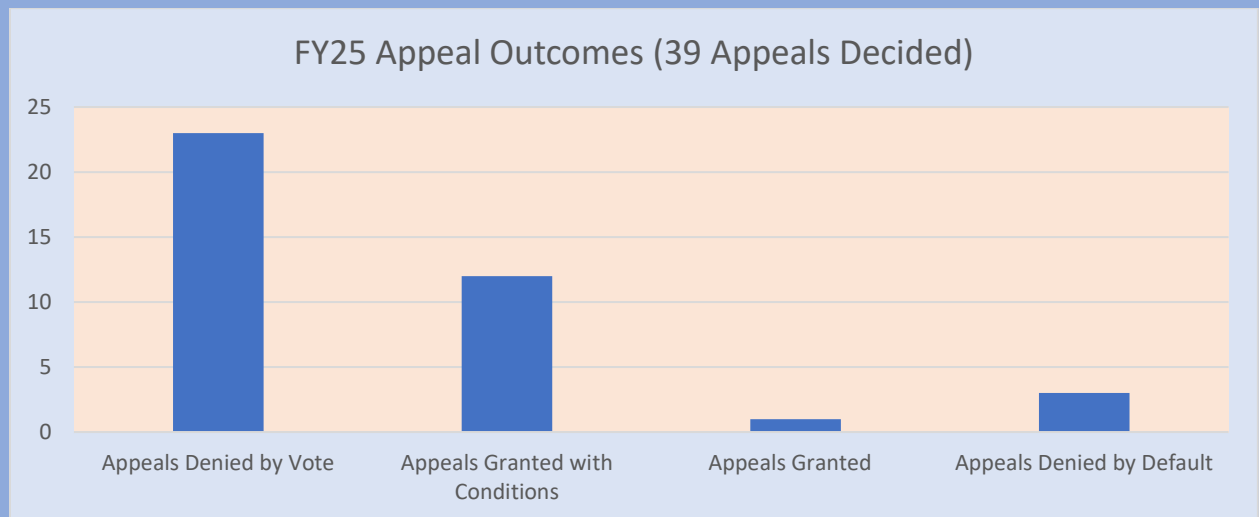
Given the supermajority vote required to grant an appeal, the Board typically denies more appeals than it grants.

**23** appeals were denied by vote resulting in the underlying departmental decision being upheld.

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

**3** appeals were 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.

**1** appeal was granted by the Board with the underlying departmental decision completely overturned.



## Outcome: Rehearing & Jurisdiction Requests

5 Rehearing Requests were decided in FY25:

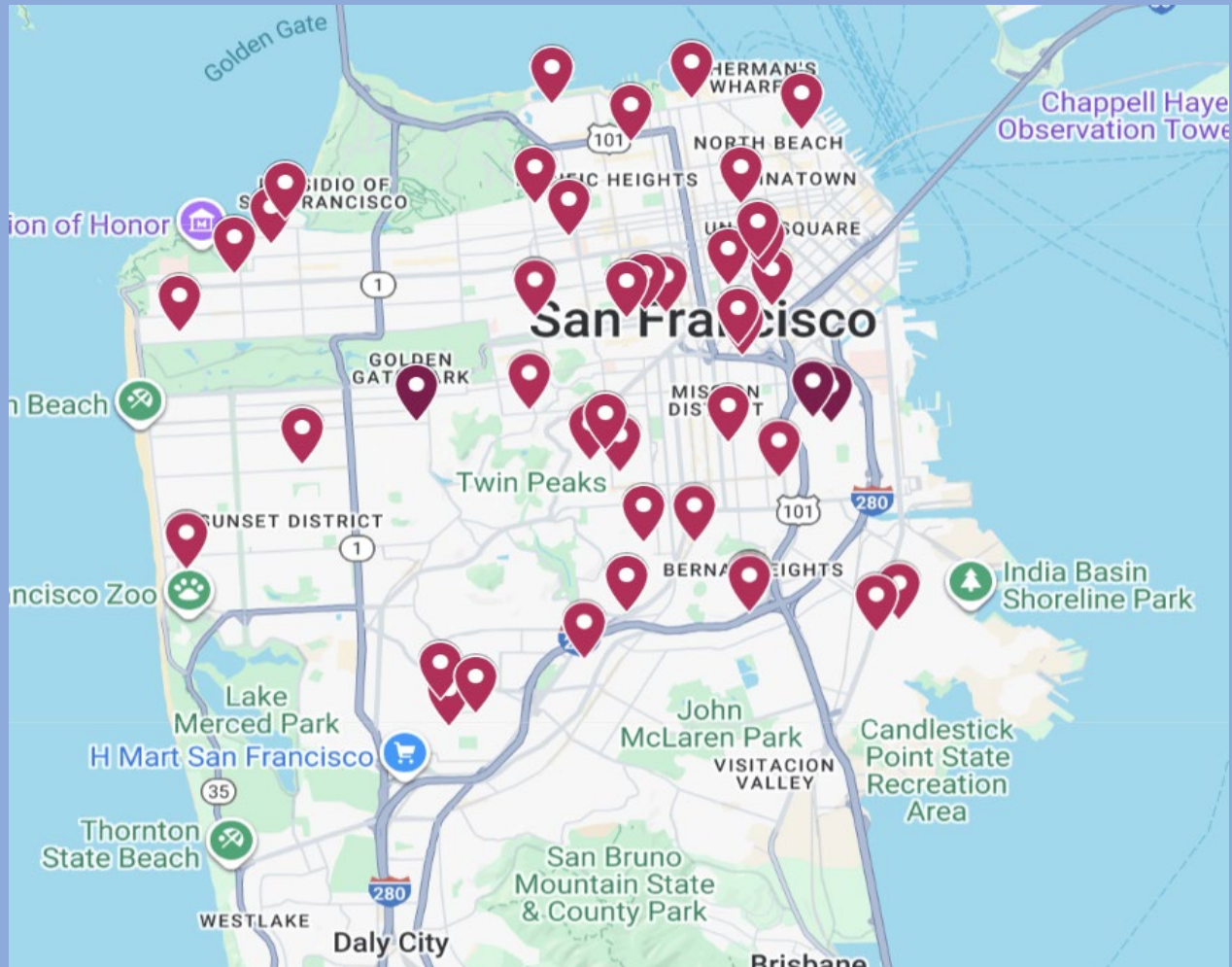
- 5 denied.

8 Jurisdiction Requests were decided in FY25

- 6 denied.
- 2 granted.

## Geographic Distribution of Appeals

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



## 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 parties<sup>13</sup> (cases decided in FY25).
  - The FY25 target was to decide 80% of the cases within 75 days of filing.<sup>14</sup>
  - The Board decided 87% of its cases within 75 days of the appeal being filed.
- Measure Two: Percentage of written decisions<sup>15</sup> that are issued within 15 days of final Board action.
  - The FY25 target was to issue 90% of the written decisions within 15 days of final action.<sup>16</sup>
  - The Board issued 100% of the written decisions within 15 days of final action.

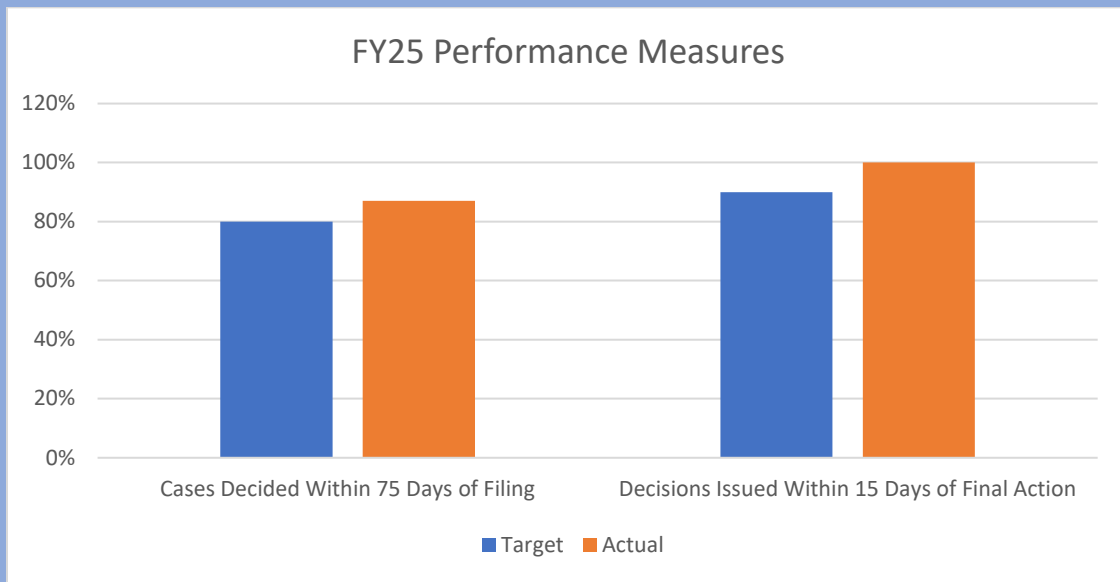
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<sup>13</sup> Prior to FY23, the metric did not exclude cases that were rescheduled or continued at the request of the parties.

<sup>14</sup> 80% has been a target since FY23. In FY22 the target was 70%. From FY11-FY21 the target was 60%.

<sup>15</sup> 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.

<sup>16</sup> 90% has been the target since FY23. The target for FY22 was 70% and the target for FY11-FY21 was 60%.



## **FY25 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**

**\$1,198,622** was the projected revenue budget:

- \$1,188,622 in *projected* surcharge revenue collected by permit issuing departments on new permit applications.
- \$10,000 in *projected* filing fee revenue collected by the Board when new appeals are filed.

### **ACTUAL REVENUE**

**\$1,367,320** in actual revenue was collected:

- Surcharges: \$1,357,445
- Filing fees: \$9,875
- Collected \$168,698 more than projected revenue

## **EXPENDITURES OVERVIEW**

### **BUDGETED EXPENDITURES**

**\$1,289,200**

### **ACTUAL EXPENDITURES**

**\$983,694** spent by the Board.

<b>Expenditures</b>		
Operating	Budgeted Expenditures	\$1,289,200
	Actual Expenditures	\$983,694
	Variance from projected budget	\$305,506

### **Breakdown of Actual Expenditures:**

- \$666,018 for salaries and fringe benefits for three full-time employees and five commissioners.
- \$93,812 for the services of the City Attorney's Office.
- \$194,742 for the services of other City departments, such as the Department of Technology, SFGovTV, Controller's Office and Real Estate (rent).
- \$23,049 for specialized services such as software licensing fees, interpreters, parking, and office management costs such as, photocopier and postage.
- \$6,074 materials and supplies.

FY25 Budget		
Operating Budget	Total Actual Revenues	\$1,367,320
	Total Actual Expenditures	\$983,694
	Surplus	\$ 383,626

## 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.

Department	FY18	FY19	FY20	FY21	F22	FY23	FY24	FY25	FY26
Planning	\$18.50	\$18.50	\$19.00	\$20.00	\$22.50	\$37.00	\$39.00	\$44.00	\$45.00
DBI	\$18.50	\$18.50	\$19.00	\$20.00	\$22.50	\$37.00	\$39.00	\$44.00	\$45.00
DPH	\$43.00	\$43.00	\$44.50	\$46.00	\$50.50	\$45.00	\$48.00	\$51.00	\$51.00
SFPW	\$6.50	\$6.50	\$6.50	\$7.00	\$9.00	\$9.00	\$10.00	\$11.00	\$11.00
SFPD	\$6.00	\$6.00	\$6.00	\$6.00	\$6.00	\$3.00	\$3.00	\$3.00	\$3.00
ENT. Com.	\$4.00	\$4.00	\$4.00	\$4.00	\$4.00	\$2.00	\$2.00	\$2.00	\$2.00



## **Appeal Filing Fees<sup>17</sup>**

<b>Determination</b>	<b>FEE</b>
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

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<sup>17</sup> Filing fees are set by ordinance and may be waived in certain circumstances.

## 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.

### **Resolved: San Francisco Care Center v. CCSF**

The dismissal for this case was entered on Sept. 25, 2024.

The petitioners in this case alleged that the City improperly denied a building permit. In 2000, petitioners entered into a development agreement with the City to build an assisted living facility with 112 units. In 2007, after the project was complete, petitioners made unpermitted improvements to remove several assisted living units and create two master administrator suites. The Department of Building Inspection issued a Notice of Violation in 2017. Petitioners sought a permit to legalize the work. The Planning Commission disapproved of the permit, and the Board of Appeals upheld that determination in 2018. The petitioners requested that the City prepare the administrative record. On February 2, 2019, the City demanded that petitioners provide a deposit for the preparation of the record. Petitioners did not respond and there has been no further action on the writ petition. In a related action prosecuted by the City Attorney's Office against the Care Center and related defendants, the trial court issued a statement of decision in defendants' favor on certain issues but also found that defendants violated the Building Code and imposed penalties under the State's Unfair Competition Law. The City Attorney's Office moved for a new trial, which was partially granted. Judgment was entered on March 2, 2023, and satisfaction of judgment was acknowledged and filed on June 5, 2023. Petition remains unresolved but the time to bring this matter to trial has lapsed. The City Attorney's Office sought and obtained mandatory dismissal of the litigation for failure to prosecute.

### **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 timely serve. The two most recently filed cases, stemming from the Board's 2017 decisions, are still before the trial court.

The parties have reached a settlement, and the execution of the settlement is ongoing. The subdivision map has been issued and permitting is underway. One of the parties to the settlement has informed the court of its desire to back out of the deal, as the property can no longer be appraised for the value established in the settlement. The trial court set a further settlement conference to discuss possible resolution and the City is exploring whether a modified agreement is possible. Discussions with the property owners regarding alternative settlement approaches are ongoing.

**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 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 Zoning Administrator 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 Zoning Administrator's determination on February 17, 2021, finding that the Zoning Administrator 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. On May 20, 2022, the Zoning Administrator 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 – a writ petition with constitutional damage claims. 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.<sup>18</sup>

#### **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.<sup>19</sup> 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 moved to dismiss, which 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 is currently in breach. The City intends to move to enforce the agreement. Plaintiff is preparing additional administrative appeals related to the permitting contemplated by the settlement.<sup>20</sup>

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<sup>18</sup> The property owner's writ claims were denied on October 20, 2025. The property owner has related constitutional claims that were not part of the writ proceeding that have not yet been resolved.

<sup>19</sup> 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.

<sup>20</sup> Update: In FY26 the City has filed a motion to enforce the settlement. There is a hearing date in February 2026.

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

A pro se litigant is challenging the denial of a proposed variance to subdivide and redevelop residential property at 4300 17th Street. The Board upheld the Zoning Administrator'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 making 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.<sup>21</sup>

With respect the denial of the rear-yard variance, the Board of Appeals denied the appeal and upheld the denial of the variance.<sup>22</sup>

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 parties are briefing the merits at the Court of Appeal. 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.

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<sup>21</sup> 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.

<sup>22</sup> 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.

**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.<sup>23</sup> 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. The City is monitoring the case, and will revisit its status. The petitioner claims she has the right to prepare the administrative record and has sought leave to amend her First Amended Petition to add a CEQA claim. On January 23, 2023, the Court denied petitioner's motion for leave to amend. The Court granted Petitioner's second motion to supplement with the understanding that City would file demurrer on statute of limitations grounds.

**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. Parties are briefing the merits at the Court of Appeal.<sup>24</sup>

**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 has prevailed on demurrer multiple times, but the court has granted plaintiff leave to amend.

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

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<sup>23</sup> 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.

<sup>24</sup> Update for FY26: Briefing at the Court of Appeals is complete and the City is waiting for oral argument notice.

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).

The City is preparing demurrer to the 8<sup>th</sup> Amended Complaint. Though the initial complaint was filed prior to exhausting administrative remedies, plaintiff has also filed petitions for writ of mandate more directly challenging various decisions of the Board of Appeals concerning the code enforcement issues.<sup>25</sup>

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<sup>25</sup> In FY26 the City demurred to the 8<sup>th</sup> Amended Complaint and a hearing is scheduled for December 23, 2025.





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



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