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Land Use Alert



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San Francisco's Amnesty Program for the Eastern Neighborhoods Planning Area: Does It Benefit You?

The San Francisco Planning Department recently announced an "Amnesty Program" for certain properties and uses in the City's "Eastern Neighborhoods" planning area. If you have an interest in a property located in the Eastern Neighborhoods, this new Amnesty Program could benefit you. However, the applicability of the Program and its benefits and burdens vary from property to property and use to use, and you should proceed with caution. We would be happy to help you determine your legal rights and obligations under the Program.

The Eastern Neighborhoods Program

The Mission, Central Waterfront, East and South of Market, and Showplace Square/Potrero Hill neighborhoods are home to much of the city's industrially zoned land. For the last 10 to 15 years, these neighborhoods have been changing and have seen growing land use conflicts where residential and office development has begun to compete with industrial uses. The Eastern Neighborhoods Program is designed to address important questions, such as, how should San Francisco plan for the future of these areas? Should we allow housing and offices to gradually predominate or should we seek to create a balance of some sort? Does the City need to keep a place for "production, distribution and repair" businesses, as well as the arts? How much space should we provide for "high-tech" industries? How much new housing should be made "affordable?" How can necessary improvements to neighborhood



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parks and transit be funded? Resolving these difficult questions – with an emphasis on balance – is at the heart of the Eastern Neighborhoods Program.

The Amnesty Program

As a result of the Eastern Neighborhoods Program, certain land uses that were previously permitted are no longer permitted. The purpose of the Amnesty Program is to establish a time-limited opportunity (until January 19, 2012) whereby existing uses that previously were permitted but are no longer permitted under the Eastern Neighborhood Program may obtain the approvals and permits necessary to continue the use.

Any use applying for amnesty must be located in one of the following zoning districts: Mixed Use – General (MUG), Mixed Use – Office (MUO), Mixed Use – Residential (MUR), Urban Mixed Use (UMU), South Park, Service/Light Industrial (SLI), PDR-1-General (PDR-1-G), or PDR-1-Design (PDR-1-D). Again, only those uses which could have been permitted before the Eastern Neighborhoods Plan may seek amnesty under this Program.

The amnesty program applies to uses that meet ALL of the following conditions:

- The use exists as of the date of the application;
- The use does not have proper permits from the Planning Department and/or Department of Building Inspection;
- The use would both (1) have been principally permitted or permitted with Conditional Use authorization under provisions of the Planning Code that were effective on April 17, 2008 (prior to the Eastern Neighborhoods Plan) and (2) not be permitted under current provisions of the Planning Code;
- The use either: (1) has been regularly operating or functioning on a continuous basis since January 19, 2007; or (2) has been functioning in the space since at least April 17, 2008, and is associated with an organization, entity or enterprise which has been located in this space on a continuous basis for no less than two years prior to the effective date of the Amnesty Program;
- The use is not accessory to any other use; and
- The use is not discontinued and has not been abandoned.

One of the big concerns about the Amnesty Program

is the amount of time and money necessary for processing applications. This is an entirely new program that will burden a Planning Department that already is short-staffed due to the economic downturn. Applicants will have to exercise patience as the process undoubtedly will take more time than expected. Also, certain fees likely will be imposed in connection with an approval granted under the Amnesty Program, the amount of which can vary depending on the circumstances.

Finally, some uses that remain permitted under the Eastern Neighborhoods Program now require a conditional use permit even though one was not required previously. Any reader who needs such a permit and would like to know more about the process should contact the authors directly and we would be glad to assist you.

Should you desire any additional information concerning any of the issues raised in this Alert, please contact the authors.

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